NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

CIS Congressional Information Service, Inc
Washington, D.C.

Calendar No. 677

101ST CONGRESS
2d Session

SENATE

REPORT
101-359

ARIZONA DESERT WILDERNESS ACT OF 1990

JULY 10, 1990.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany H.R. 2570]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2570) to provide for the designation of certain public lands as wilderness in the State of Arizona, having considered the same, reports favorably thereon with an amendment and recommends that the act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arizona Desert Wilderness Act of 1990".

TITLE I—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

SEC. 101. DESIGNATION AND MANAGEMENT.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act, the following public lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System:

(1) certain lands in Mohave County, Arizona, which comprise approximately 23,600 acres, as generally depicted on a map entitled "Mount Wilson Wilderness" and dated February 1990, and which shall be known as the Mount Wilson Wilderness;

(2) certain lands in Mohave County, Arizona, which comprise approximately 31,070 acres, as generally depicted on a map entitled "Mount Tipton Wilderness" and dated February 1990, and which shall be known as the Mount Tipton Wilderness;

S313-80

(2) certain lands in Mohave County, Arizona, which comprise approximately 31,070 acres, as generally depicted on a map entitled "Mount Tipton Wilderness" and dated February 1990, and which shall be known as the Mount Tipton Wilderness;

(3) certain lands in Mohave County, Arizona, which comprise approximately 27,530 acres, as generally depicted on a map entitled "Mount Nutt Wilderness" and dated February 1990, and which shall be known as the Mount Nutt Wilderness: *Provided,* That the existing water pipeline for the town of Oatman, together with the right of ingress and egress thereto, may be operated, maintained, and upgraded, subject to reasonable requirements to protect wilderness values;

(4) certain lands in Mohave County, Arizona, which comprise approximately 90,600 acres, as generally depicted on a map entitled "Warm Springs Wilderness" and dated February 1990, and which shall be known as the Warm Springs Wilderness;

(5) certain lands in Mohave County, Arizona, which comprise approximately 15,900 acres, as generally depicted on a map entitled "Aubrey Peak Wilderness" and dated February 1990, and which shall be known as the Aubrey Peak Wilderness;

(6) certain lands in La Paz County, Arizona, which comprise approximately 14,630 acres, as generally depicted on a map entitled "East Cactus Plain Wilderness" and dated February 1990, and which shall be known as the East Cactus Plain Wilderness;

(7) certain lands in Mohave and La Paz Counties, Arizona, which comprise approximately 41,600 acres, as generally depicted on a map entitled "Rawhide Mountains Wilderness" and dated February 1990, and which shall be known as the Rawhide Mountains Wilderness;

(8) certain lands in Mohave, Yavapai, and La Paz Counties, Arizona, which comprise approximately 126,760 acres, as generally depicted on a map entitled "Arrastra Mountain Wilderness" and dated February 1990, and which shall be known as the Arrastra Mountain Wilderness;

(9) certain lands in La Paz County, Arizona, which comprise approximately 25,287 acres, as generally depicted on a map entitled "Harcurvar Mountains Wilderness" and dated February 1990, and which shall be known as the Harcuvar Mountains Wilderness;

(10) certain lands in La Paz and Maricopa Counties, Arizona, which comprise approximately 22,865 acres, as generally depicted on a map entitled "Harquahala Mountains Wilderness" and dated February 1990, and which shall be known as the Harquahala Mountains Wilderness;

(11) certain lands in Maricopa County, Arizona, which comprise approximately 20,600 acres, as generally depicted on a map entitled "Big Horn Mountains Wilderness" and dated February 1990, and which shall be known as the Big Horn Mountains Wilderness;

(12) certain lands in Maricopa County, Arizona, which comprise approximately 30,170 acres, as generally depicted on a map entitled "Hummingbird Springs Wilderness" and dated February 1990, and which shall be known as the Hummingbird Springs Wilderness;

(13) certain lands in La Paz, Yuma, and Maricopa Counties, Arizona, which comprise approximately 89,000 acres, as generally depicted on a map entitled "Eagletail Mountains Wilderness" and dated February 1990, and which shall be known as the Eagletail Mountains Wilderness;

(14) certain lands in Maricopa County, Arizona, which comprise approximately 15,250 acres, as generally depicted on a map entitled "Signal Mountain Wilderness" and dated February 1990, and which shall be known as the Signal Mountains Wilderness;

(15) certain lands in Maricopa County, Arizona, which comprise approximately 61,000 acres, as generally depicted on a map entitled "Woolsey Peak Wilderness" and dated February 1990, and which shall be known as the Woolsey Peak Wilderness;

(16) certain lands in Maricopa County, Arizona, which comprise approximately 14,500 acres, as generally depicted on a map entitled "Sierra Estrella Wilderness" and dated February 1990, and which shall be known as the Sierra Estrella Wilderness;

(17) certain lands in Maricopa and Pinal Counties, Arizona, which comprise approximately 34,400 acres, as generally depicted on a map entitled "Table Top Wilderness" and dated February 1990, and which shall be known as the Table Top Wilderness;

(18) certain lands in Pima County, Arizona, which comprise approximately 5,080 acres, as generally depicted on a map entitled "Coyote Mountains Wilderness" and dated February 1990, and which shall be known as the Coyote Mountains Wilderness;

(19) certain lands in Pima County, Arizona, which comprise approximately 2,065 acres, as generally depicted on a map entitled "Baboquivari Peak Wilderness" and dated February 1990, and which shall be known as the Baboquivari Peak Wilderness;

(20) certain lands in Gila County, Arizona, which comprise approximately 9,201 acres, as generally depicted on a map entitled "Needle's Eye Wilderness" and dated February 1990, and which shall be known as the Needle's Eye Wilderness: *Provided*, That the right-of-way reserved by right-of-way reservation A-16043 dated October 20, 1986, together with the right of ingress and egress thereto, shall not be affected by this Act, and the existing powerline utilizing such right-of-way may be operated, maintained, and upgraded, subject to reasonable requirements to protect wilderness values;

(21) certain lands in Graham County, Arizona, which comprise approximately 6,590 acres, as generally depicted on a map entitled "North Santa Teresa Wilderness" and dated February 1990, and which shall be known as the North Santa Tereas Wilderness. The Secretary of the Interior, acting through the Bureau of Indian Affairs, shall administer that portion of the Black Rock Wash Road located within the boundaries of the San Carlos Apache Reservation so as to allow reasonable use of the road for private and administrative purposes and may permit limited public use of such road for the purpose of access to the public lands outside the reservation boundary;

(22) certain lands in Graham County, Arizona, which comprise approximately 10,883 acres, as generally depicted on a map entitled "Fishhooks Wilderness" and dated February 1990, and which shall be known as the Fishhooks Wilderness;

(23) certain lands in Cochise County, Arizona, which comprise approximately 11,998 acres, as generally depicted on a map entitled "Dos Cabezas Mountains Wilderness" and dated February 1990, and which shall be known as the Dos Cabezas Mountains Wilderness;

(24) certain lands in Graham and Cochise Counties, Arizona, which comprise approximately 6,600 acres, as generally depicted on a map entitled "Redfield Canyon Wilderness" and dated February 1990, and which shall be known as the Redfield Canyon Wilderness;

(25) certain lands in La Paz County, Arizona, which comprise approximately 18,805 acres, as generally depicted on a map entitled "Gibraltar Mountain Wilderness" and dated February 1990, and which shall be known as the Gibraltar Mountain Wilderness;

(26) certain lands in La Paz and Mohave Counties, Arizona, which comprise approximately 15,755 acres, as generally depicted on a map entitled "Swansea Wilderness" and dated February 1990, and which shall be known as the Swansea Wilderness;

(27) certain lands in La Paz County, Arizona, which comprise approximately 29,095 acres, as generally depicted on a map entitled "Trigo Mountain Wilderness" and dated February 1990, and which shall be known as the Trigo Mountain Wilderness;

(28) certain lands in Yuma County, Arizona, which comprise approximately 8,855 acres, as generally depicted on a map entitled "Muggins Mountain Wilderness" and dated February 1990, and which shall be known as the Muggins Mountain Wilderness;

(29) certain lands in Yavapai and Maricopa Counties, Arizona, which comprise approximately 9,200 acres, as generally depicted on a map entitled "Hells Canyon Wilderness" and dated February 1990, and which shall be known as the Hells Canyon Wilderness;

(30) certain lands in Marticopa County, Arizona, which comprise approximately 63,600 acres, as generally depicted on a map entitled "North Maricopa Mountains Wilderness" and dated February 1990, and which shall be known as the North Maricopa Mountains Wilderness;

(31) certain lands in Maricopa County, Arizona, which comprise approximately 60,800 acres, as generally depicted on a map entitled "South Maricopa Mountains Wilderness" dated February 1990, and which shall be known as the South Maricopa Mountains Wilderness;

(32) certain lands in Mohave County, Arizona, which comprise approximately 38,400 acres, as generally depicted on a map entitled "Wabayuma Peak Wilder-

ness" and dated February 1990, and which shall be known as the Wabayuma Peak Wilderness;

(33) certain lands in Yavapai and Mohave Counties, Arizona, which comprise approximately 27,900 acres, as generally depicted on a map entitled "Upper Burro Creek Wilderness" and dated June 1990, and which shall be known as the Upper Burro Creek Wilderness;

(34) certain lands in Yavapai County, Arizona, which comprise approximately 11,840 acres, as generally depicted on a map entitled "Hassayampa River Canyon Wilderness" and dated February 1990, and which shall be known as the Hassayampa River Canyon Wilderness;

(35) certair lands in Pinal County, Arizona, which comprise approximately 5,800 acres, as generally depicted on a map entitled "White Canyon Wilderness" and dated February 1990, and which shall be known as the White Canyon Wilderness;

(36) certain lands in Yavapai County, Arizona, which comprise approximately 8,700 acres, as generally depicted on a map entitled "Tres Alamos Wilderness" and dated February 1990, and which shall be know as the Tres Alamos Wilderness;

(37) certain lands in Cochise County, Arizona, which comprise approximately 19,650 acres, as generally depicted on a map entitled "Peloncillo Mountains Wilderness" and dated February 1990, and which shall be known as the Peloncillo Mountains Wilderness;

(38) certain lands in La Paz County, Arizona, which comprise approximately 21,680 acres, as generally depicted on a map entitled "New Water Mountains Wilderness" and dated February 1990, and which shall be known as the New Water Mountains Wilderness;

(39) certain lands in Pinal and Graham Counties, Arizona, which comprise approximately 12,711 acres, as generally depicted on a map entitled "Aravaipa Wilderness Additions" and dated February 1990, and which are hereby incorporated in and shall be deemed to be a part of the Aravaipa Canyon Wilderness (designated in Public Law 98-406, 98 Stat. 1491).

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated by this title shall be administered by the Secretary of the Interior (hereafter in this title referred to as the "Secretary") in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

(c) MAP AND LEGAL DESCRIPTION.—As soon as practicable after enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated under this title with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in such legal description and map may be made. Copies of such map and legal description shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and in the appropriate office of the Bureau of Land Management in Arizona.

(d) NO BUFFER ZONES.—The Congress does not intend for the designation of wilderness areas in the State of Arizona pursuant to this title and lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) FISH AND WILDLIFE.—As provided in paragraph (7) of section 4(d) of the Wilderness Act, nothing in this title or in the Wilderness Act shall be construed as affecting the jurisdiction or responsibilities of the State of Arizona with respect to wildlife and fish on the public lands located in that State.

(f) LIVESTOCK.—Grazing of livestock in wilderness areas designated by this title, where established prior to the date of the enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act and the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101-405).

(2) The Secretary is directed to review all policies, practices, and regulations of the Bureau of Land Management regarding livestock grazing in Bureau of Land Management administered wilderness areas in Arizona in order to insure that such

policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this title.

(g) WATER.—(1) With respect to each wilderness area designated by this title, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this title. The priority date of such reserved rights shall be the date of enactment of this Act.

(2) The Secertary and all other officers of the United States shall take all steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment, 43 U.S.C. 666.

(3) Nothing in this title shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The Federal water rights reserved by this title are specific to the wilderness areas located in the State of Arizona designated by this title. Nothing in this title related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(h) WILDLIFE MANAGEMENT.—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title, where consistent with relevant wilderness management plans, in accordance with appropriate policies and guidelines such as those set forth in Appendix B of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101-405).

(i) MILITARY ACTIVITIES.—Nothing in this title shall preclude low level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this title.

(j) MINERAL EXCHANGES.—It is the intent of Congress that private mineral rights within wilderness areas designated by this title be acquired as expeditiously as possible by the Secretary using existing authority to acquire such rights by exchange.

(k) AMENDMENT.—Section 101(a)(23) of the Arizona Wilderness Act of 1984 (98 Stat. 1487) is amended by striking "the governmental agency having jurisdictional authority may authorize limited access to the area, for private and administrative purposes, from U.S. Route 70 along Black Rock Wash to the vicinity of Black Rock;".

SEC. 102. AREAS RELEASED.

Excepting for the Baker Canyon area (AZ-040-070), and the approximately 57,800 acres of public land as generally depicted on a map entitled "Cactus Plain Wilderness Study Area" dated February, 1990, the Congress hereby finds and directs that all public lands in Arizona, administered by the Bureau of Land Management pursuant to the Federal Land Policy and Management Act of 1976 not designated as wilderness by this title, or previous Acts of Congress, have been adequately studied for wilderness designation pursuant to section 603 of such Act and are no longer subject to the requirement of section 603(c) of such Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

TITLE II—DESIGNATION OF THE GILA BOX RIPARIAN NATIONAL CONSERVATION AREA

SEC. 201. DESIGNATION AND MANAGEMENT.

(a) PURPOSES.—In order to conserve, protect, and enhance the riparian and associated areas described in subsection (b) and the aquatic, wildlife, archeological, paleontological, scientific, cultural, recreational, educational, scenic, and other resources and values of such areas, there is hereby established the Gila Box Riparian National Conservation Area (hereafter in this title referred to as the "conservation area").

(b) AREAS INCLUDED.—The conservation area shall consist of the public lands generally depicted on a map entitled "Gila Box Riparian National Conservation Area" dated February 1990, and comprising approximately 20,900 acres.

(c) MAP.—As soon as practicable after the date of enactment of this Act, a map and legal description of the conservation area shall be filed by the Secretary with the Committee on Interior and Insular Affairs of the United States House of Repre-

sentatives and the Committee on Energy and Natural Resources of the United States Senate. Such map shall have the same force and effect as if included in this section. Copies of such map shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior, and in the appropriate office of the Bureau of Land Management in Arizona.

(d) MANAGEMENT OF CONSERVATION AREA.—(1) The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances its resources and values, including the resources and values specified in subsection (a), pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this title.

(2) The Secretary shall allow only such uses of the conservation area as the Secretary finds will further the purposes for which the conservation area is established. Except where needed for administrative purposes or to respond to an emergency, use of motorized vehicles in the conservation area shall be permitted only on roads specifically designated for such use as part of the management plan prepared pursuant to subsection (g).

(e) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and goethermal leasing, and all amendments thereto.

(f) WATER.—(1) Congress hereby reserves a quantity of water sufficient to fulfill the purposes, as specified in subsection (a), for which the conservation area is established. The priority date of this reserved right shall be the date of enactment of this Act.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect the right reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such right in any present or future appropriate stream adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment, 43 U.S.C. 666.

(3) Nothing in this title shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The Federal rights reserved by this title are specific to the conservation area located in the State of Arizona designated by this title. Nothing in this title related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(g) MANAGEMENT PLAN.—(1) No later than two years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the conservation area (hereinafter in this title referred to as the "management plan") in order to fulfill the purposes for which the conservation area is established. The mangement plan shall be developed with full public participation and shall include provisions designed to assure protection of the resources and values (including the resources and values specified in subsection (a)) of the conservation area.

(2) The management plan shall include a discussion of the desirability of the inclusion in the conservation area of additional lands, including the lands not in Federal ownership that are contiguous to the boundary of the conservation area (as depicted on the map referenced in subsection (b) or as hereafter adjusted pursuant to subsection (h)) and within the area extending two miles on either side of the centerline of Eagle Creek from the point where Eagle Creek crosses the southern boundary of the Apache National Forest to the confluence of Eagle Creek with the Gila River (this area is hereafter referred to in this title as the "Eagle Creek riparian area").

(3) In order to better implement the management plan, the Secretary may enter into cooperative agreements with appropriate State and local agencies pursuant to section 307(b) of the Federal Land Policy and Management Act of 1976.

(4) In order to assist in the development and implementation of the management plan, the Secretary may authorize appropriate research, including research concerning the environmental, biological, hydrological, cultural, and other characteristics, resources, and values of the conservation area, pursuant to section 307(a) of the Federal Land Policy and Management Act of 1976.

(h) ACQUISITION AND BOUNDARY ADJUSTMENTS.—(1) Subject to the limitations set forth in paragraph (3), the Secretary is authorized to acquire non-Federal lands or

interests therein within the boundaries of the conservation area or within the Eagle Creek riparian area.

(2) The Secretary is authorized to adjust the boundaries of the conservation area so as to incorporate within the conservation area any lands or interests within the Eagle Creek riparian area that may be acquired after the date of enactment of this Act as well as public lands within that portion of the Eagle Creek riparian area west of the centerline of Eagle Creek that the Secretary finds appropriate in order to properly manage such acquired lands as part of the conservation area. Any lands or interests so incorporated shall be managed as part of the conservation area.

(3) No lands or interests therein owned by the State of Arizona or any political subdivision of such State shall be acquired pursuant to this subsection except through donation or exchange, and no lands or interests within the conservation area or the Eagle Creek riparian area shall be acquired from any other party or entity except by donation, exchange, or purchase with the consent of the owner of such lands or interests.

(i) NO BUFFER ZONES.—The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area to the extent consistent with other applicable law.

(j) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to advise the Secretary with respect to the preparation and implementation of the management plan. Such advisory committee shall consist of seven members appointed by the Secretary. One member shall be appointed from among recommendations submitted by the Governor of Arizona, one member shall be appointed from among recommendations submitted by the Graham County Board of Supervisors and one member shall be appointed from among recommendations submitted by the Greenlee County Board of Supervisors. The remaining members shall be persons recognized as experts in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the purposes for which the conservation area is established.

(k) REPORT.—No later than five years after the date of enactment of this Act, and at least each ten years thereafter, the Secretary shall report to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the implementation of this title, the condition of the resources and values of the conservation area, and the progress of the Secretary in achieving the purposes for which the conservation area is established.

(l) ENFORCEMENT.—Any person who violates any regulation promulgated by the Secretary to implement this title shall be subject to a fine in accordance with applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3572) or to imprisonment for at least six months but no more than one year, or both such fine and imprisonment.

(m) AUTHORIZATION.—There are hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this title.

TITLE III—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE UNITED STATES FISH AND WILDLIFE SERVICE

SEC. 301. DESIGNATION AND MANAGEMENT

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) certain lands in the Havasu National Wildlife Refuge, Arizona, which comprise approximately 14,606 acres, as generally depicted on a map entitled "Havasu Wilderness" and dated March 13, 1990, and which shall be known as the Havasu Wilderness;

(2) certain lands in the Imperial National Wildlife Refuge, Arizona, which comprise approximately 9,220 acres, as generally depicted on a map entitled "Imperial Refuge Wilderness" and dated March 13, 1990, and which shall be known as the Imperial Refuge Wilderness;

(3) certain lands in the Kofa National Wildlife Refuge, Arizona, which comprise approximately 511,000 acres, and certain other public lands comprising approximately 5,300 acres which are hereby added to and incorporated within such refuge (and which shall be managed accordingly), all as generally depicted

on a map entitled "Kofa Wilderness" and dated March 13, 1990, and which shall be known as the Kofa Wilderness; and

(4) certain lands in the Cabeza Prieta National Wildlife Refuge, Arizona, which comprise approximately 803,418 acres, as generally depicted on a map entitled "Cabeza Prieta Wilderness" and dated March 13, 1990, and which shall be known as the Cabeza Prieta Wilderness.

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated under this title shall be administered by the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this title.

(c) MAP AND LEGAL DESCRIPTION.—As soon as practicable after enactment of this title, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the United States House of Representatives and with the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate. Such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, United States Department of the Interior.

(d) WATER.—(1) With respect to each wilderness area designated by this title, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this title. The priority date of such reserved rights shall be in the date of enactment of this Act.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate steam adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment, 43 U.S.C. 666.

(3) Nothing in this title shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The Federal water rights reserved by this title are specific to the wilderness areas located in the State of Arizona designated by this title. Nothing in this title related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(e) NO EFFECT ON COLORADO RIVER DAMS.—Nothing in this title shall be construed to affect the operation for flood control purposes of Federally owned dams located on the Colorado River.

(f) MILITARY ACTIVITIES.—Nothing in this title including the designation as wilderness of lands within the Cabeza Prieta National Wildlife Refuge, shall be cosntrued as—

(1) precluding or otherwise affecting continued low-level overflights by military aircraft over such refuge or the maintenance of existing associated ground instrumentation, in accordance with any applicable interagency agreements in effect on the date of enactment of this Act; or

(2) precluding the Secretary of Defense from entering into new or renewed agreements with the Secretary concerning use by military aircraft of airspace over such refuge or the maintenance of existing associated ground instrumentation, consistent with management of the refuge for the purpose for which such refuge was established and in accordance with laws applicable to the National Wildlife Refuge System.

(g) LAW ENFORCEMENT BORDER ACTIVITIES.—Nothing in this title, including the designation as wilderness of lands within the Cabeza Prieta National Wildlife Refuge, shall be construed as—

(1) precluding or otherwise affecting continued border operations by the Immigration and Naturalization Service, the Drug Enforcement Administration, or the United States Customs Service within such refuge, in accordance with any applicable interagency agreements in effect on the date of enactment of this Act; or

(2) precluding the Attorney General of the United States or the Secretary of the Treasury from entering into new or renewed agreements with the Secretary concerning Immigration and Naturalization Service, Drug Enforcement Administration, or United States Customs Service border operations within such refuge, consistent with management of the refuge for the purpose for which such refuge was established, and in accordance with laws applicable to the National Wildlife Refuge System.

Purpose of the Measure

The primary purposes of H.R. 2570, as ordered reported, are to designate 39 wilderness areas in Arizona comprising approximately 1.1 million acres, to be administered by the Bureau of Land Management, release approximately 950,000 acres of wilderness study areas for multiple use management by the BLM, and designate 1.3 million acres of wilderness areas within four National Wildlife Refuges in Arizona.

Background and Need

Section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) requires the Secretary of the Interior to review all BLM roadless areas 5,000 acres or more in size for possible designation as wilderness. The Secretary is to complete the review by 1991. Since the passage of FLPMA in 1976, the BLM has been inventorying roadless areas and preparing its final package of wilderness recommendations. In all, approximately 25 million acres of land in 860 separate areas were identified and classified by the BLM as Wilderness Study Areas.

Although the field work and final recommendations from the BLM State directors have been completed for several States, the BLM has yet to submit its final wilderness recommendations for any State pursuant to section 603 of FLPMA.

The BLM has identified approximately 2 million acres of Wilderness Study Areas in the State of Arizona. The BLM has indicated that final recommendations regarding wilderness suitability for these 2 million acres would not be transmitted to the Congress until 1991. As reflected in title I of H.R. 2570, as ordered reported, this legislation would designate approximately 1.1 million acres as wilderness and would be the first State-wide wilderness designation for BLM administered lands.

The Wilderness Act of 1964 established a procedure under which every roadless area of 5,000 contiguous acres or more and every roadless island within the National Wildlife Refuge System were to be reviewed and recommended for possible designation as wilderness. The Wilderness Act's review provisions were also applicable to the National Forest System and National Park System.

With respect to the National Wildlife Refuge System, 113 roadless areas inside refuge system units totaling approximately 29 million acres were identified for review for possible wilderness designation. Favorable wilderness recommendations were transmitted to Congress for 92 areas, of which 26 (including the four to be designated by this bill) are awaiting Congressional action. The designation of wilderness within the four Arizona refuges represents the first time since 1980 that wilderness has been designated within National Wildlife Refuges.

In 1973 and 1974, the President recommended wilderness designation for the Havasu, Imperial, Kofa and Cabeza Prieta National Wildlife Refuges in Arizona. The wilderness designations in title III of H.R. 2570, as ordered reported, follow those recommendations, with the exception of the proposed acreage within the Havasu National Wildlife Refuge, which reflects changes in subsurface land ownership status since the presidential recommendation.

Legislative History

H.R. 2570, introduced by Representative Udall, passed the House of Representatives by a vote of 356–45 on February 28, 1990. As passed by the House, H.R. 2570 designated only the 39 BLM wilderness areas and the Gila Box Riparian National Conservation Area. On April 3, 1990, the House of Representatives, by a voice vote, passed H.R. 2571, which designated the four National Wildlife Refuge Wilderness areas.

Senators DeConcini and McCain introduced their original Arizona wilderness bill, S. 1080, on May 15, 1989. That bill designated wilderness for both BLM and wildlife refuge areas. On February 8, 1990, both Arizona Senators introduced S. 2117, which incorporated several boundary modifications agreed to by the Arizona Congressional delegation. S. 2117 also designated both BLM and wildlife refuge wilderness.

On April 5, 1990, the Subcommittee on Public Lands, National Parks and Forests held a hearing on H.R. 2570 and S. 2117.

At the business meeting on June 20, 1990, the Senate Committee on Energy and Natural Resources ordered H.R. 2570, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on June 20, 1990, by a majority vote of a quorum present, recommends that the Senate pass H.R. 2570, if amended as described herein.

The roll call vote on reporting the measure was 13 yeas, 6 nays, as follows:

Yeas	Nays
Mr. Johnston	Mr. Domenici
Mr. Bumpers	Mr. Wallop*
Mr. Ford	Mr. Murkowski
Mr. Bradley*	Mr. Nickles
Mr. Bingaman*	Mr. Burns
Mr. Wirth	Mr. Garn*
Mr. Conrad*	
Mr. Heflin*	
Mr. Rockefeller*	
Mr. Akaka	
Mr. McClure	
Mr. Hatfield*	
Mr. McConnell	

*Indicates voted by proxy.

COMMITTEE AMENDMENT

During the consideration of H.R. 2570, the Committee adopted an amendment in the nature of a substitute. The amendment designates 39 wilderness areas in Arizona comprising approximately 1.1 million acres, to be administered by the Bureau of Land Management, retains two areas in wilderness study status, establishes the 21,000 acre Gila Box National Riparian Conservation Area, releases approximately 950,000 acres of wilderness study areas for multiple use management by the BLM, and designates approximately 1.3 million acres of wilderness areas within four National Wildlife Refuges in Arizona.

The amendment also address the following substantive issues:

BOUNDARIES

The Committee amendment designates thesame BLM and wildlife refuge wilderness areas as the two House-passed bills, with one exception. The boundary of the Upper Burro Creek wilderness area, designated in title I of the amendment, is modified to facilitate management of the unit, include previously unprotected areas, and exclude certain roads that would have been closed. The new boundary increases the acreage for the unit by 540 acres, for a total of 27,900 acres.

With respect to the Mount Nutt wilderness area, the amendment provides that the existing water pipeline for the town of Oatman, together with the right of ingress and egress thereto, may be operated, maintained, and upgraded, subject to reasonable requirements to protect wilderness values. The Committee expects that if the town obtains an alternate water supply, the pipeline running through the wilderness area will be abandoned.

GRAZING

Section 101(f) of the amendment states that the grazing of livestock in BLM wilderness areas, where established prior to the enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act and the guidelines included in the report of the House Committee on Interior and Insular Affairs accompanying H.R. 2570 (H. Rept. 101-405). Similar grazing provisions have been included in several State-wide wilderness bills affecting lands within the National Forest System.

WATER LANGUAGE

H.R. 2570 creates a Federal reserved water right for the BLM wilderness areas, the Gila Box Riparian National Conservation Area, and the National Wildlife Refuge wilderness areas. The water rights language is identical for all three titles, and is the same language passed by the House of Representatives.

H.R. 2570 explicitly reserves for both BLM and wildlife refuge wilderness areas, and for the National Conservation Area, a quantity of water sufficient to fulfill the purposes of the title designating the BLM or refuge wilderness areas or the National Conservation Area. The priority date for such water right is the date of enactment of this Act. The Secretary of the Interior and all other offi-

cers of the United States are required to take all steps necessary to protect the reserved water rights, including the filing of a claim for the quantification of water rights in any present or future stream adjudication in the State of Arizona to which the United States is or may be joined under the McCarran Amendment. The McCarran Amendment (43 U.S.C. 666) waives the defense of sovereign immunity to permit the United States to be involuntarily joined in a State stream adjudication proceeding.

Currently, the State of Arizona has ongoing stream adjudication proceedings for the Gila and Little Colorado Rivers, encompassing about 85 percent of the State's watershed. Two of the BLM wilderness areas proposed to be designated are located along the Bill Williams River, for which a general stream adjudication proceeding has not yet been initiated. The Arizona Department of Water Resources has indicated that the Bill Williams is not ready for an adjudication. The Committee expects that when the State initiates such a proceeding, the water rights for the affected wilderness areas will be quantified in an Arizona State Court.

The Committee amendment also provides that nothing in titles I, II, or III shall be construed as a relinquishment or reduction of any water rights in Arizona reserved or appropriated by the United States on or before the enactment of this Act. Finally, the water rights language makes clear that the language is not to be construed as establishing a precedent with regard to any future wilderness designations in any other states, nor shall it constitute an interpretation of any other Act.

The Committee notes that this water language has broad local support among Arizona elected officials, including both Senators, four of the five Members of the House of Representatives, the Governor, and the Director of the Arizona Department of Water Resources.

Two of the proposed wilderness areas designated in title III of the amendment, Havasu and Imperial, are located in National Wildlife Refuges along the Colorado River. While the refuges already have reserved water rights arising from the river, the Committee amendment would establish a new reserved water right specifically for wilderness purposes. The Committee has not attempted to quantify the new right, nor to determine to what extent the present right would satisfy, or fail to satisfy, any requirements of this Act. The Committee notes that in order to prevent any assertion of a new reserved right from the Colorado River, the boundaries of the wilderness areas were drawn at the river's maximum high water mark, the one hundred year flood level, thereby excluding the river from these wilderness areas. The designation of these two wilderness areas will have no effect on any existing Colorado River water allocations.

During the consideration of the amendment, some concern was expressed regarding possible impact on Upper Basin—Lower Basin Colorado River water allocations as previously confirmed by the Congress or resulting from United States Supreme Court rulings. The water rights language included in the Committee amendment does not affect, nor should it be construed by any party to effect, any Colorado River water allocations. The language is intended to create a Federal reserved water right only with respect to water

arising upon, or flowing through the wilderness areas themselves. The only wilderness areas designated by this Act that are adjacent to the main stem of the Colorado River are the wilderness areas designated in the Havasu and Imperial wildlife refuges. The boundaries for these two wilderness areas were explicitly drawn to exlude the Colorado River, and to avoid any impact on interstate water allocations.

WILDLIFE MANAGEMENT

Section 101(h) of the amendment provides that management activities to maintain or restore fish and wildlife populations may be carried out within wilderness areas in accordance with the provisions of the guidelines included in the report of the House Committee on Interior and Insular Affairs accompanying H.R. 2570 (H. Rept. 101-405). The guidelines included in the report set forth various specific wildlife management guidelines within wilderness areas, including the use of motorized equipment, fish and wildlife research and management surveys, facility development and habitat alteration, fishing, hunting and trapping, wildlife population sampling, chemical treatment of waters, the stocking of fish (including aerial fish stocking), transplanting wildiife, wildlife damage control, visitor management, and fire management.

MILITARY OVERFLIGHTS

Section 101(i) of the Committee amendment provides that nothing in title I shall preclude low-level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over any of the BLM wilderness areas designated in title I. This language is identical to overflight language enacted earlier this Congress in Public Law 101-195, the Nevada Wilderness Protection Act. The Committee notes that this language was recommended by both the Department of Defense and the Bureau of Land Management.

The Cabez Prieta National Wildlife Refuge is overlain by the Barry M. Goldwater Air Force Range. The statutory withdrawal for the range expires in 2001. Military overflights of the refuge are governed by a written agreement between the Department of the Interior and the Department of Defense. Pursuant to the agreement, aircraft flying over the refuge are required to maintain a minimum altitude of 1,500 feet above ground level, except for within mutually agreed corridors, where air operations below 1,500 feet are allowed. Section 301(f) of the amendment clarifies that the activities allowed under the current agreement will be allowed to continue after the designation of wilderness within the refuge. The amendment also authorizes the Departments of Defense and Interior to enter into new interagency agreements concerning military overflights of the Cabeza Prieta wilderness.

LAW ENFORCEMENT ACTIVITIES

The Committee substitute adds a new provision pertaining to law enforcement activities along the United States-Mexican border and within the wilderness designated in the Cabeza Prieta National Wildlife Refuge. Currently, the Immigration and Naturalization

Service, the Drug Enforcement Administration and the U.S. Customs Service conduct operations along the border within the refuge. The amendment recognizes such operations and provides for their continuation through existing or new interagency agreements between the Department of the Interior, the Department of Justice, and the Department of the Treasury. The Committee notes that the U.S. Fish and Wildlife Service and the Immigration and Naturalization Service have successfully coordinated their activities pursuant to an interagency agreement since 1987.

MINERAL EXCHANGES

The Committee understands that private mineral holdings exist within some of the BLM wilderness areas designated in title I of the Committee amendment. Section 101(j) of the Committee amendment states that it is the intent of Congress that the Secretary of the Interior acquire such mineral rights as expeditiously as possible, using existing exchange authority. The Committee does not intend, however, that the Secretary delay acquisition of other private holdings within wilderness areas.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill the "Arizona Desert Wilderness Act of 1990."

Title I provides for the designation of 39 wilderness areas to be administered by the Bureau of Land Management (BLM).

Section 101(a) identifies the areas to be designated as wilderness.

The following 39 areas are designated as wilderness, totaling approximately 1.1 million acres:

Mount Wilson	23,600
Mount Tipton	31,070
Mount Nutt	27,530
Warm Springs	76,600
Aubrey Peak	15,900
East Cactus Plain	14,630
Rawhide Mountain	41,600
Arrastra Mountain	129,525
Harcuvar Mountains	25,287
Harquahala Mountains	22,865
Big Horn Mountains	20,600
Hummingbird Springs	30,170
Eagletail Mountains	94,100
Signal Mountain	15,250
Woolsey Peak	61,000
Sierra Estrella	14,500
Table Top	34,400
Coyote Mountains	5,080
Baboquivari Peak	2,065
Needle's Eye	9,201
North Santa Teresa	6,590
Fishhooks	10,883
Dos Cabezas	11,998
Redfield Canyon	6,600
Gibraltar Mountain	18,805
Swansea	15,755
Trigo Mountain	29,095
Muggins Mountain	8,855
Hells Canyon	9,200
North Maricopa Mountains	63,600
South Maricopa Mountains	72,004

Wabayuma Peak	38,400
Upper Burro Creek	27,900
Hassayampa River Canyon	11,840
White Canyon	5,800
Tres Alamos	8,700
Peloncillo Mountains	19,650
New Water Mountains	21,860
Aravaipa Canyon Wilderness Additions	12,711

The report of the Committee on Interior and Insular Affairs accompanying H.R. 2570 describes in detail the natural, scenic, and wildlife resources associated with each area.

Subsection (b) provides that subject to valid existing rights, the wilderness areas designated in subsection (a) are to be administered by the Secretary of the Interior (the Secretary) in accordance with the provisions of the Wilderness Act.

Subsection (c) requires the Secretary to file a map and legal description of the areas to be designated as wilderness with the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources as soon as practicable after the date of enactment of the Act. Copies of the maps and legal descriptions are to be available for public inspection at the BLM Washington office and the appropriate BLM office in Arizona.

Subsection (d) clarifies that the designation of wilderness areas does not imply the creation of "protective perimeters" or buffer zones around any of the areas. The Committee is aware that this language may have particular significance for the proposed White Canyon wilderness area. The Committee understands that there is potential for the development of large-scale mining activities relatively close to the boundary of the proposed wilderness area. The boundary of the wilderness area was drawn so as to exclude this potential mining area from wilderness designation. The Committee recognizes that noise, dust, and other non-wilderness activities may impact the proposed wilderness area if significant mining operations on adjacent lands proceed. This subsection clarifies that such mining activities are not to be limited solely because they can be seen or heard within the White Canyon wilderness.

Subsection (e) states that nothing in this title or the Wilderness Act shall be construed as affecting the jurisdiction of the State of Arizona with respect to wildlife or fish on public lands located in Arizona.

Subsection (f) provides that grazing of livestock within wilderness areas designated in subsection (a), where such grazing is established prior to the date of enactment of this Act, is to be administered in accordance with section 4(d)(4) of the Wilderness Act and guidelines set forth in Appendix A to the report of the Committee on Interior and Insular Affairs accompanying H.R. 2570 (H. Rept. 101-405).

Paragraph (2) requires that the Secretary is to review all policies, practices and regulations of the BLM regarding livestock grazing in BLM wilderness areas to insure that the policies conform with Congressional intent with respect to such areas, as expressed in this title.

Subsection (g) provides that, with respect to each of the 39 wilderness areas designated by this title, Congress reserves a quantity of water sufficient to fulfill the purposes of this title. The priority

date of the reserved rights is the date of enactment of this Act. The Secretary and all other officers of the United States are directed to take all steps necessary to protect the reserved rights, including the filing by the Secretary of a claim for the quantification of the reserved rights in any present or future appropriate steam adjudication proceeding in Arizona State court in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment.

The subsection further provides that nothing in this title shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

Paragraph (4) makes clear that the Federal water rights reserved by this title are specific to the wilderness areas designated pursuant to this title, and that nothing in the title relating to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act.

Subsection (h) states that management activities to restore fish and wildlife populations may be carried out within the wilderness areas as provided in guidelines set forth in Appendix B to the report of the Committee on Interior and Insular Affairs accompanying H.R. 2570 (H. Rept. 101–405).

Subsection (i) provides that nothing in this title shall preclude low-level overflights of military aircraft, the designation or new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this title.

Subsection (j) states that it is the intent of Congress that private mineral rights within wilderness areas designated by this title be acquired as expeditiously as possible by the Secretary using existing exchange authority.

Subsection (k) amends the Arizona Wilderness Act of 1984 to strike language allowing the Federal Government to authorize limited access to the Black Rock Wash Road, which runs through a portion of the San Carlos Apache Indian Reservation. The road is necessary to provide access to several private ranches, to the Santa Teresa wilderness designated in 1984, and to the North Santa Teresa wilderness area designated in subsection (a)(21). The designation of the North Santa Teresa wilderness now includes a provision stating that the Bureau of Indian Affairs shall allow reasonable use of the road for private and administrative purposes and may permit limited public use of such road.

Section 102 releases all BLM Wilderness Study Areas which were not designated as wilderness in section 101 from further wilderness study, and directs that such lands be administered by BLM for multiple use purposes in accordance with FLPMA. Two Wilderness Study Areas, Baker Canyon and approximately 57,800 acres of Cactus Plain, are to be retained in study status.

Title II establishes the Gila Box Riparian National Conservation Area.

Section 201(a) establishes the conservation area in order to conserve, protect, and enhance the riparian and associated areas, and the various resources associated with the area.

Subsection (b) provides that the conservation area shall consist of approximately 20,900 acres, as depicted on the map referenced in subsection (c).

Subsection (c) directs the Secretary to file a map and legal description of the conservation area with the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee as soon as practicable after the date of enactment of the Act. Copies of the maps and legal descriptions are to be available for public inspection at the BLM Washington office and the appropriate BLM office in Arizona.

Subsection (d) requires the Secretary to manage the conservation area in a manner that conserves, protects and enhances its resources and values pursuant to FLPMA and other applicable law.

Paragraph (2) provides that the Secretary shall allow only those uses of the conservation area that the Secretary finds will further the purposes for which the conservation area is established. The paragraph further provides that except where needed for administrative purposes or to respond to an emergency, motor vehicles are only permitted on specifically designated roads within the conservation area.

Subsection (e) withdraws, subject to valid existing rights, all Federal lands within the conservation area from all forms of appropriation or entry under the public land laws, the mining laws and the mineral and geothermal leasing laws.

Subsection (f) reserves a quantity of water sufficient to fulfill the purposes for which the conservation area is established. The water language is identical to the language for BLM wilderness areas described in section 101(g), above.

Subsection (g) directs the Secretary to develop a comprehensive management plan for the conservation area within two years after the date of enactment of this Act.

Paragraph (2) provides that the management plan is to address the desirability of including within the conservation area the lands known as the Eagle Creek Riparian Area.

Paragraph (3) authorizes the Secretary to enter into cooperative agreements with appropriate State and local agencies pursuant to section 307(b) of FLPMA.

Paragraph (4) permits the Secretary to authorize appropriate research within the conservation area in order to assist in the development and implementation of the management plan.

Subsection (h) authorizes the Secretary to acquire non-Federal lands or interests therein within the boundary of the conservation system unit or within the Eagle Creek riparian area, subject to the limitations contained in paragraph (3).

Paragraph (3) provides that no lands or interests therein within the conservation area owned by the State of Arizona or a political subdivision of the State may be acquired except by donation or exchange, and that no private lands or interests within the conservation area or the Eagle Creek riparian area may be acquired except by donation, exchange, or on a willing seller basis.

Subsection (i) clarifies that the designation of the conservation area does not imply the creation of "protective perimeters" or buffer zones around the area.

Subsection (j) directs the Secretary to establish an advisory committee to advise the Secretary with respect to the preparation and implementation of the management plan for the conservation area. The committee is to consist of seven members appointed by the Secretary, including one member recommended by the Governor of Arizona, one member each recommended by the Graham and Greenlee County Board of Supervisors, and four members recognized as experts in several disciplines related to the management of the conservation area.

Subsection (k) states that the Secretary is to report to Congress not later than 5 years after the date of enactment of this Act, and every ten years thereafter, on the implementation of this section, the condition of the conservation area's resources and values, and the progress of the Secretary in achieving the purposes for which the areas are established.

Subsection (l) provides that any person who violates any regulation promulgated by the Secretary to implement this section shall be subject to a fine in accordance with applicable provisions of the Sentencing Reform Act or to imprisonment of between six months and one year, or both.

Subsection (m) authorizes the appropriation of such sums as may be necessary to implement the purposes of this title.

Title III provides for the designation of National Wildlife Refuge wilderness areas and the administration of those areas by the United States Fish and Wildlife Service.

Section 301(a) identifies the lands to be designated as wilderness in National Wildlife Refuges in Arizona. The following four areas are designated as wilderness, totaling approximately 1.3 million acres:

Havasu	14,606
Imperial Refuge	9,220
Kofa	516,300
Cabeza Prieta	803,418

A more complete discussion of the areas follows:

HAVASU NATIONAL WILDLIFE REFUGE

Straddling the lower Colorado River, the Havasu National Wildlife Refuge is located about halfway between Las Vegas and the United States border with Mexico. The refuge was created by Executive Order in 1941 to protect and manage the wildlife resources of the area flooded by Parker Dam. Along with the other roadless areas in excess of 5,000 acres in the National Wildlife Refuge System, the roadless portions of Havasu were studied for wilderness designation after passage of the Wilderness Act in 1964. In 1971, the President recommended 17,751 acres of the refuge as wilderness, encompassing lands in both California and Arizona. In 1974, the Arizona areas were deleted from the proposed designation because of third party mineral holdings. With the assistance of the Bureau of Land Management, these mineral rights were acquired through land exchanges in 1988. H.R. 2570, as ordered reported, designates 14,600 acres of the Havasu National Wildlife Refuge in the State of Arizona as wilderness.

The proposed wilderness encompasses portions of the Mohave and Chemehuevi Mountains and the precipitous Topock Gorge. The

main channel of the Colorado River flowing through the refuge is excluded from the wilderness proposal. The scenic values of the area are enhanced by the inclusion of "the Needles," a series of pinnacles rising abruptly from the desert floor. The area's terrain is rugged and diverse, with only limited road or trail access. While recreation on the lower Colorado River is increasing rapidly, with visitation averaging 700,000 persons annually, few of these visitors leave the river area for the desert uplands proposed as wilderness. Thus, the refuge offers splendid opportunities for solitude and enjoyment of the area's wilderness attributes.

As with other refuges along the Colorado River, the Havasu National Wildlife Refuge is noted for its concentrations of wintering waterfowl and other migratory bird species. Pockets of backwater marsh along the Colorado support a wide variety of wildlife, including the endangered Yuma clapper rail, bald eagles, Gila monsters and peregrine falcons. A small herd of desert bighorn sheep inhabits the more inaccessible sites of the rocky uplands. There is a striking contrast in plant and animal communities between the lush river bottom and the sparse desert uplands. The riparian areas are dominated by cattails, bulrush and salt cedar. The uplands are more characteristic of the Sonoran desert, with creosote, palo verde and brittlebush predominating.

The area around Havasu National Wildlife Refuge is also rich in history. The Mohave Indians lived in scattered dwellings along the river, the continuation of more than 12,000 years of human occupancy of the lower Colorado. Early Spanish explorers used the river as a highway to the interior dating back to 1540. Prominent 19th Century explorers, such as Jedediah Smith and Kit Carson, also penetrated the region. By the time of the California gold rush, the Needles crossing was a well-known route to nearby gold fields.

IMPERIAL NATIONAL WILDLIFE REFUGE

The Imperial National Wildlife Refuge is located along the Colorado River, 20 miles north of Yuma, Arizona, and consists of tracts of land in both Arizona and California. H.R. 2570, as ordered reported, would designate 9,220 acres of the refuge in the state of Arizona as wilderness. The Imperial refuge was established by Executive Order in 1941 to provide habitat for wintering and migrating birds, especially a large population of western Canada Geese that winters in the refuge.

The proposed Imperial National Wildlife Refuge Wilderness offers excellent opportunities for solitude and wilderness recreation. The area contains rugged cliffs more than 800 feet high descending to the river in addition to many backwater lakes and marshes. There is little vehicular access to the wilderness area from the east, most access is by boat from the river. While some 200,000 to 300,000 people a year visit the refuge, the vast majority of use occurs on the main river channel. The visitor who strays from the main channel will soon find him or herself alone in the surrounding wilderness. Backwater lakes are separated from the river by heavily vegetated bars, providing screening from the river traffic. Other areas of the wilderness are screened from the river by ridges and washes.

Flowing through the refuge, the lower Colorado River provides a marked contrast with the surrounding desert. As with the Havasu wilderness, the boundaries of the Imperial wilderness have been drawn at the maximum high water mark, the one hundred year flood level, excluding the river from the wilderness area. The lush river bottom contains such water-dependent species as cottonwood, cattail, bulrush and willow. The desert uplands, by comparison, are more sparsely vegetated, with creosote, palo verde, ocotillo and cholla dominating. In addition to the large populations of waterfowl attracted to the river, the refuge is home to bald eagles, white pelicans and Tundra swans. Mammals inhabiting the area include bighorn sheep, mule deer, coyote and beaver. A large variety of reptiles and amphibians can also be found.

Most recreation in the refuge is wildlife-oriented, such as hunting and nature study. However, the area also provides excellent opportunities for recreation associated with the river, including canoeing, swimming and boating. Camping is possible in the adjacent Trigo Mountains area that would be designated as wilderness in title I of H.R. 2570, as ordered reported.

KOFA NATIONAL WILDLIFE REFUGE

The Kofa National Wildlife Refuge is located east of Highway 95 between Yuma and Quartzsite, Arizona. H.R. 2570, as ordered reported, would designate 542,600 acres of the refuge as wilderness, reflecting the recommendation of the President in 1974. Encompassing a large portion of the Sonoran desert mountains and alluvial plains of southwestern Arizona, the vast and diverse Kofa Refuge presents one of the most outstanding wilderness areas in the desert southwest. The area includes the steep and rocky Kofa and Castle Dome Mountains, containing Signal Peak, the highest mountain in southwestern Arizona at 4,877 feet. Visitors are also rewarded with scenic canyons such as Kofa Queen, Palm Canyon and Big Eye Wash. The alluvial areas, making up a third of the refuge, consist of gently sloping plains with lushly vegetated washes that drain the nearby mountains.

With such diverse terrain, the Kofa Refuge offers a home to a wide range of plant and animal species. The refuge is a rich example of the Sonoran desert ecosystem, more similar to the central Arizona deserts that to the drier deserts along the lower Colorado River. Many species found here, including the Arizona coral snake, the black-tailed rattlesnake and the white-thorn acacia, are at or near the southern and western edges of their geographic distribution. A few canyons in the refuge also contain California fan palms, a rare sight for visitors to the Arizona desert.

The Kofa Refuge, however, is perhaps best known for its healthy population of desert bighorn sheep. Not only are the bighorns important game animals for the refuge, but the population provides an excellent source of transplant stock for newly established populations elsewhere. In fact, management of bighorn sheep populations and habitat is one of the primary reasons for establishment of the refuge in 1939. The designation of wilderness is not intended to change this or any other purpose for the refuge. Rather, the desig-

nation is meant to provide the most appropriate means by which the goals of the refuge may be achieved.

The Kofa refuge is an important recreation area in southwestern Arizona. Camping and hunting make up the bulk of the area's present use. Hiking, backpacking and nature study are also popular in the refuge's varied terrain.

CABEZA PRIETA NATIONAL WILDLIFE REFUGE

Located in southwestern Arizona, the Cabeza Prieta National Wildlife Refuge is bordered on the east by Organ Pipe National Monument, on the south by the United States border with Mexico and on the north and west by the Barry M. Goldwater Air Force Range. Created in 1939, Cabeza Prieta is the third largest wildlife refuge in the lower 48 states. It is one of the few remaining large tracts of uninhabited desert wilderness in the United States. This vast area provides a unique opportunity for wilderness recreation in one of the most undisturbed areas of the nation. H.R. 2570 designates 833,500 acres of the refuge as wilderness, conforming to the recommendations of the Fish and Wildlife Service in 1971 as reconfirmed in 1989.

The Cabeza Prieta Refuge is a premier example of the Sonoran desert ecosystem. The refuge contains six mountain ranges separated by wide alluvial valleys. The vegetation is diverse and typical of the Sonoran desert. Palo verde, ironwood and mesquite trees are abundant with numerous native grasses and flowering plants carpeting the desert terrain. The area is also rich in cactus species, such as the saguaro, cholla, organ pipe and prickly pear.

Cabeza Prieta provides a home for an abundant wildlife population as well. More than 60 mammal species, 40 reptile and amphibian species and over 200 types of birds can be found here. As with Kofa National Wildlife Refuge, one of the primary reasons for the establishment of the Cabeza Prieta National Wildlife Refuge was protection of the desert bighorn sheep. Other special status species in the region include the desert tortoise, the Gila monster and the endangered Sonoran pronghorn antelope. The Sonoran pronghorn exists only here, in adjacent areas in Organ Pipe National Monument, and in Mexico.

Evidence of early human habitation, dating back 10,000 to 12,000 years, can be found at natural water sources. The Cabeza Prieta area was also traversed by several historic travel routes, including the Camino del Diablo, listed on the National Register of Historic Places. The Camino was an important route to California as early as the 1500's and continuing through the California Gold Rush. Many primitive graves can still be found along the way—testimony to the harshness of travel across the desert.

Subsection (b) provides that the lands designated as wilderness in subsection (a) are to be administered by the Secretary in accordance with the provisions of the Wilderness Act, subject to valid existing rights.

Subsection (c) requires the Secretary to file a map and legal description of each designated wilderness area with the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources as soon as practicable after the

date of enactment of this Act. The maps and legal descriptions are also to be on file in the Director's office of the U.S. Fish and Wildlife Service.

Subsection (d) reserves a quantity of water sufficient to fulfill the purposes for which the wilderness areas are established. The water language is identical to the language for the BLM wilderness areas described in section 101(g), above.

Subsection (e) makes clear that nothing in this title shall be construed to effect the operation for flood control purposes of Federally owned dams along the Colorado River. Both the Havasu and Imperial National Wildlife Refuges are located along the river. The Committee notes that the wilderness boundaries for both refuges have been drawn at the 100-year flood high-water mark. It is the Committee's expectation, therefore, that designation of these two wilderness areas will have no effect on the operation of any Federally-owned dam along the river. This subsection merely clarifies this expectation.

Subsection (f) states nothing in title III, including the designation of the Cabeza Prieta wilderness area, shall be construed as precluding or affecting low-level overflights by military aircraft over the Cabeza Prieta National Wildlife Refuge or maintaining existing associated ground instrumentation, or from precluding the Secretary of Defense from entering into new or renewed agreements with the Secretary of the Interior concerning the use by military aircraft of airspace over the refuge, consistent with management of the refuge for the purpose of which such refuge was established.

Subsection (g) provides similar authority for law enforcement operations along the U.S.-Mexican border and within the proposed Cabeza Prieta Wilderness. The subsection states that nothing in title III, including the designation of the Cabeza Prieta wilderness area, shall be construed as precluding or affecting continued border operations by the Immigration and Naturalization Service, the Drug Enforcement Administration, and the U.S. Customs Service, or from precluding the Secretary of Interior from entering into new or renewed agreements with the Attorney General of the United States or the Secretary of the Treasury concerning border operations, consistent with management of the refuge for the purpose for which such refuge was established.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 29, 1990.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 2570, the Arizona Desert Wilderness Act of 1990, as ordered reported by the Senate Committee on Energy and Natural Resources on June 20, 1990. We estimate that implementation of

this bill would result in additional costs to the federal government totaling about $2 million annually over the next five years, assuming appropriation of the necessary amounts.

H.R. 2570 would designate as wilderness 39 parcels of land in the State of Arizona, totaling about 1.1 million acres. This land would be managed by the Bureau of Land Management (BLM). Another four areas in the state, totaling 1.3 million acres, also would be designated as wilderness, to be managed by the Fish and Wildlife Service. In addition, the bill would designate about 21,000 acres as the Gila Riparian National Conservation Area to be managed by BLM.

Based on recent information from the Department of the Interior, we estimate that additional costs to the federal government for surveying, planning, and related activities necessary to implement the wilderness withdrawals and the conservation area will total about $2 million annually over the 1991–1995 period.

Enactment of this bill would not affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226–2860.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2570. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 2570, as reported.

EXECUTIVE COMMUNICATIONS

On March 7, 1990, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on H.R. 2570. These reports had not been received at the time the report on H.R. 2570 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Bureau of Land Management and the United States Fish and Wildlife Service at the Subcommittee hearing on H.R. 2570 and S. 2117 follows:

STATEMENT OF CY JAMISON, DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to appear before you today to present the Department's views on S. 2117, the proposed "Arizona Wilderness Act of 1990" and H.R. 2570, the proposed "Arizona Desert Wilderness Act of 1990."

The Administration supports the concept of designating additional wilderness in Arizona. The Administration prefers to allow the Bureau of Land Management's wilderness study process to be completed, with the recommendations then being transmitted by the Secretary to the President and then to Congress as required by law. This ensures full interagency review. Moreover, such a careful, orderly approach provides the best recommendations for comprehensive wilderness legislation.

However, if the Committee chooses to proceed with this legislation, we are providing you BLM's preliminary recommendations for all areas now under study in the State of Arizona. These preliminary recommendations are without the benefit of complete mineral reports, wilderness study reports, takings analyses, State, Department or full interagency review that is currently scheduled to be completed by 1991.

We strongly urge the Committee to delay final action on this legislation to allow us to complete an interagency review of the preliminary recommendations contained in this testimony. This review will be based on existing mineral and other resource data, but it will allow the Administration to formulate a comprehensive set of recommendations for resolution of the BLM wilderness question in Arizona, including the release of all public lands currently under wilderness study but not included in the wilderness system.

Since H.R. 2570 is quite similar to S. 2117, I will address my remarks only to S. 2117, except where I note the differences. I will confirm my remarks to Title I of S. 2117, which designates BLM lands as wilderness. Title II pertains to wilderness areas within the national wildlife refuge system. We defer to the Fish and Wildlife Service on that title.

BACKGROUND

As you know, BLM has been engaged in review of wilderness study areas (WSA's) pursuant to section 603 of the Federal Land Policy and Management Act (FLPMA). The Department is developing specific detailed Wilderness Study Reports for each WSA. These, plus the U.S. Geological Survey and Bureau of Mines mineral reports as well as a statewide summary, will furnish the basis for the recommendations that will ultimately be submitted to the President in 1991. If the President concurs, the Administration's proposal will then be forwarded to Congress for further consideration. This is the process called for in FLPMA and we are proceeding to implement it in the manner Congress set forth in that Act. We believe that this careful and orderly, comprehensive approach which reveals the total BLM wilderness picture, is preferable to an accelerated process at this time.

While only a few of the wilderness study reports have been formally completed in accordance with the process established by

FLPMA, I have been assured by the Arizona State office and Washington office staff that the bulk of the necessary information relating to Arizona wilderness has been developed, analyzed and synthesized. I am also confident that adequate opportunity for public involvement has been provided.

During the past few months, BLM's Arizona State office staff has been working with congressional staff and other interested parties to develop, assemble and make available as much needed information as possible to arrive at the individual designation decisions. This has been a challenge for all concerned, and I want to recognize here the commitment and diligence of those who have contributed to this cooperative effort.

As a result of this thrust, our BLM Arizona State office has been able to work out many of the remaining resource conflicts, boundary issues and other concerns brought to light through the wilderness study process. Further, I am pleased to note that mineral reports have been finalized for twenty of the WSA's proposed for wilderness designation in S. 2117 and H.R. 2570 but 19 remain to be completed.

With this background, I will summarize the bills, noting areas of difference.

Wilderness area designation

Title I of S. 2117 would designate 39 BLM wilderness areas, comprising a total of approximately 1.1 million acres in Arizona. These areas are situated in BLM's Phoenix, Safford and Yuma Districts and comprise parts of Mohave, La Paz, Yavapai, Yuma, Maricopa, Pima, Gila, Graham, Cochise, Pinal, and Greenlee Counties, Arizona.

Section 101 requires designated areas to be administered by the Secretary of the Interior in accordance with the Wilderness Act. It also provides that maps and legal descriptions of the designated areas be filed with the appropriate House and Senate Committees and that copies be kept on file in the Headquarters office of BLM.

Subsection 101(d) states the intent of Congress that no buffer zones be created around the designated wilderness areas. Section 101(e) preserves the status quo with respect to State jurisdiction over wildlife and fish within designated areas.

Under subsection 101(f), existing grazing uses are to be administered under section 4(d)(4) of the Wilderness Act and certain guidelines referenced in the bill. In addition, the bill directs the Secretary to review all grazing policies, practices and regulations of the Bureau for wilderness areas in Arizona to assure that they conform with the intent of this legislation.

In subsection 101(g) Congress establishes a Federal reserved water right to be quantified by the Secretary in an appropriate stream adjudication. The priority date of this reserved water right would be the date of enactment of this Act. This language differs from the related provisions in H.R. 2570. Section 2(g) of H.R. 2570 reserves water sufficient to fulfill the purposes of the Act and establishes the priority date as the date of enactment. Further, it requires the Secretary and other officials of the United States to take steps needed to protect the reserved rights. These would include filing a claim for quantification in any appropriate stream adjudi-

cation in the State courts in which the United States is joined and which is conducted under the McCarran Amendment. Finally, H.R. 2570 specifies that the water rights reserved are specific to the area designated and that nothing in the Act shall be construed to set a precedent for future designations.

Section 101(h) authorizes activities for maintenance or restoration of fish and wildlife populations and the habitats to support them within wilderness areas where consistent with relevant wilderness management plans. This would be carried out in accordance with policies and guidelines referenced in the Act.

Section 102 releases lands not included in the wilderness areas, nearly 950,000 acres, from further study under Section 603 of FLPMA. This release would not apply to Baker Canyon and approximately 57,800 acres of the Cactus Plain Wilderness Study Area.

Gila Box Riparian National Conservation Area

Section 103 establishes the Gila Box Riparian National Conservation Area, comprising approximately 20,900 acres depicted on a referenced map and provides for its management to conserve, protect, and enhance its resources and values, pursuant to FLPMA and other applicable law. Use of the area would be confined to those uses that further the porposes for which it is established. Except for emergency or administrative use, motorized vehicle use would be limited to roads designated as part of a management plan.

Subsection 103(e) would withdraw the Gila Box Riparian NCA from all forms of appropriation and would congressionally establish a Federal reserve water right to be quantified by the Secretary in an appropriate stream adjudication. The priority date of this reserved water right would be the date of enactment of this act. Again the water rights language differs from that in the comparable section of H.R. 2570, in the same manner as the water rights language for wilderness areas that I mentioned previously.

Subsection 103(f) directs the Secretary to develop a comprehensive plan for the long term management of the conservation area within two years after the date of enactment. Subsection 103(g) authorizes land acquisition within the NCA unit or the Eagle Creek Riparian area and authorizes boundary adjustments. However, State owned lands could be acquired only by donation or exchange, and owner consent would be required for all acquisitions in the Eagle Creek area.

Subsection 103(h) states the intent of Congress that no buffer zones be created should the Gila Box Riparian National Conservation Area.

Under subsection 103(i) the Secretary is directed to establish an advisory committee to provide advice on the preparation and implementation of the Gila Box NCA Management Plan.

Section 103(j) directs the Secretary to report to the appropriate Senate and House Committee, no later than 5 years after the date of enactment of this Act and at least each 10 years thereafter, on the implementation of section 103, the condition of the resources and values of the conservation area and the progress being made in achieving the purposes for which the conservation area is established.

Section 103(k) established penalties for violating regulations promulgated by the Secretary to implement section 103.

DISCUSSION

As I indicated in my introductory remarks, we are committed to the process for wilderness recommendations set forth in FLPMA and urge that BLM wilderness designations be handled under this approach. However, due to the information which has been developed and the extraordinary success we have had in resolving conficts relating to these specific areas under consideration in S. 2117 and H.R. 2570, I believe we are in position to make preliminary recommendations for amendment that largely would address any remaining concerns that we are currently aware of. Further changes may be necessary following interagency review within the Administration.

COMMENTS AND SUGGESTED AMENDMENTS PERTAINING TO GENERAL PROVISIONS

Grazing policy review

Subsection 101(f) requires review of grazing polities, practices and regulations to assure conformity with the Wilderness Act. These are continuously under review to assure compliance with law and policy. Specific direction to carry out a review is not needed.

Water rights language section 101(g) and 103(e)

With all due respect, the Department opposes the water rights language in both bills. We think if a water right is needed BLM can apply under State law. Arizona is the first State to proceed with this type of water rights language and we feel it would have adverse consequences if applied on a National basis.

As I noted in my summary of the bills, the language of the two bills, differs with regard to reservation of water rights. If you intend to proceed anyway, we prefer the language found in sections 2(g) and 4(e) of H.R. 2570. This language, although only slightly different than what appears on S. 2117, more specifically characterizes the current situation and the course of action that the Department would expect to pursue in State courts with respect to water rights. We strongly urge amendment of S. 2117 to substitute the language of H.R. 2570 with regard to water rights in wilderness areas as well as the corresponding language in the section on Gila Box Riparian NCA if the committee decides to create new Federal reserve water rights.

Wildlife management

We strongly support the inclusion of specific language to provide for management activities to benefit fish and wildlife and the habitats to support them, providing they are consistent with wilderness management plans and the guidelines referenced in the legislative history.

Release of lands from further study

Under section 102 of S. 2117 and section 3 of H.R. 3570, Baker Canyon and approximately 57,800 acres of the Cactus Plain WSA are left in study status indefinitely.

We agree that consideration of Baker Canyon is more appropriate in conjuction with reporting the recommendations for wilderness suitability in the State of New Mexico, as it is adjacent to a much study area in that State.

With regard to Cactus Plain, it is our understanding that study status is to continue pending a decision by the town of Parker as to whether or not it will relocate adjacent to the study area. Since the boundaries of Cactus Plain have been modified to exclude the problem area we urge it be included in the designation. If not, then we shall proceed to implement the wilderness study provisions of section 603 of FLPMA with regard to Cactus Plain and will make further recommendations when that process is completed.

COMMENTS AND RECOMMENDED AMENDMENTS CONCERNING SPECIFIC WSA'S DESIGNATED AS WILDERNESS BY S. 2117 AND H.R. 2570

Of the 39 areas proposed for designation as wilderness in S. 2117, BLM's Arizona State office initially recommended all or portions of 30 as suitable. There are also 6 areas recommended as suitable which are not included in S. 2117 or H.R. 2570. I will address these differences with some specificity, if I may.

The 9 areas included in this proposed legislation that BLM initially recommended as unsuitable for wilderness designation are Upper Burro Creek, Hassayampa River Canyon, Hummingbird Springs, Hells Canyon, North Maricopa Mountains, South Maricopa Mountains, White Canyon, Tres Alamos, and Peloncillo Mountains. We continue to have concerns about the designation of 7 of these, although boundary modifications in the bills have eliminated some of the most troublesome manageability considerations. It should be noted that none of these 9 areas have been studied by the Bureau of Mines and U.S. Geological Survey.

For the remaining two areas, White Canyon and Peloncillo Mountains, however, we would not object to designation. In the case of White Canyon, a revision of the boundaries resolved resource conflicts. The Peloncillo Mountains have always been known to have outstanding natural values and characteristics, but previous land ownership patterns made wilderness management problematic. Exchanges completed with the State Land Department have eliminated the problems and allowed us to support an area even larger than the original WSA as suitable for wilderness designation.

Areas BLM recommends be eliminated from S. 2117 and H.R. 2570

We urge that both bills be amended to eliminate and release these areas, due to their unsuitability for wilderness designation.

Upper Burro Creek

BLM recommends the release from further study of the Upper Burro Creek WSA because of manageability problems caused by private mineral inholdings, certain onsite land uses incompatible

with the preservation of wilderness values, and potential mineral development in several portions of the WSA. Access to and development potential of the privately owned mineral rights, especially in the northern half of the WSA, may eventually subject this area to an unpredictable regime of difficult to regulate surface disturbing impacts. Much of the northern and central portions of the WSA consist of flat mesa tops which support relatively intensive grazing systems. This, associated with riparian restoration along Francis and Burro Creeks, would present compatibility problems with the long-term management of this area as wilderness.

Santa Fe Pacific Railroad owns the mineral estate in 6,400 acres within the Upper Burro Creek WSA. It has recently expressed an interest in exchanging out its mineral estate, whether or not the 6,400 acres are included in the Upper Burro Creek Wilderness Area or excluded from it. We are willing to work with Santa Fe Pacific Railroad on an exchange of its mineral interests in the Upper Burro Creek WSA, but I recommend that Upper Burro Creek not be designated as wilderness for the reasons I mentioned.

Hassayampa River Canyon WSA

We recommend the Hassayampa River Canyon WSA not be included in the wilderness designation in the bills due to manageability problems resulting from land ownership patterns, potential mineral conflicts, and an obvious lack of local public support. Even with the boundaries as described in the bills, the mineral potential and manageability problems overlap the river canyon, the area with the highest wilderness values. Those portions of the WSA outside the river canyon do not have high enough wilderness qualities to merit a suitability recommendation.

Hummingbird Springs WSA

Hummingbird Springs should not be designated as wilderness because other resource uses, including general vehicle-based motorized and non-motorized types of recreation, the potential for gold and associated mineral development, and manageability problems would make wilderness management inappropriate. It is a popular recreation area. Hunting, hiking, sight-seeing, driving of jeep trails and camping are the most popular activities. Although natural in appearance and seemingly pristine in many areas, the area contains a well used trail network, with many of these routes in wash bottoms. Although the boundary adjustments in both bills would reduce or eliminate some resource conflicts, some still remain.

Hells Canyon WSA

Manageability problems caused by inholdings, cherrystemmed roads, and on-site and off-site land uses incompatible with the preservation of wilderness values are the reasons BLM does not recommend the Hells Canyon area as suitable for designation. Potential development of and the associated access to two 640-acre parcels would severely impact wilderness values in a substantial portion of the area. Five frequently used roads extend into the WSA. All five would be closed to the public use under these bills.

North Maricopa Mountains WSA

The North Maricopa Mountains area is not recommended as wilderness because of manageability problems associated with potential mineral development, and the continued use of several cherry-stemmed roads that extend into the unit. The area will be difficult to manage for wilderness without complete road and vehicle way closures, because of its close proximity to an area with increasing population growth. Some of the manageability problems have been reduced by the boundary adjustments reflected in the bills. Although there is no record of extensive mineral production in the area, at least half of the unit is considered to have moderate to high mineral potential.

South Maricopa Mountains WSA

The South Maricopa Mountains also have manageability problems associated with mineral development and the continued use of two cherrystems entering the area from Interstate 8. Approximately 35 miles of vehicle ways, not including cherrystems, dissect most of the western half, making it difficulty to manage off highway vehicle related recreation. Although there is no record of extensive mineral production, as much as 75 percent of the unit contains high to moderate mineral potential, with a majority of the mineralized area haveing high mineral mineral potential.

Tres Alamos WSA

Low wilderness values and potential conflicts with mineral development are the reasons we do not recommend the Tres Alamos area as suitable for wilderness designation. Despite the area's scenic character, its generally sparse screening and open plains confine opportunities for solitude to small portions and provide no outstanding recreation opportunities. The eastern cliffs of the attractive monolith are on State lands, giving the area poor management integrity.

Acreage or other differences in specific wilderness designations

We note that the bills differ as to the acreage included for several areas. These are Warm Springs, Arrastra Mountain, Eagletail Mountains, and South Maricopa Mountains. In each case the acreage in H.R. 2570 more closely reflects BLM recommendations and resolution of resource or other conflicts. We recommend amendment of S. 2117 to conform to H.R. 2570 in that regard.

Subsection 2(a)(21) of H.R. 2570 has necessary language that is lacking in S. 2117. It pertains to the North Santa Theresa area and would specify that management of a road within the San Carlos Apache Reservation would be carried out through the Bureau of Indian Affairs. Limited use of the road for certain purposes would be authorized. We urge inclusion of this language in the comparable provision of S. 2117.

Areas BLM recommends be included in wilderness designation in S. 2117 and H.R. 2570

Based on current information, we urge amendment to include additional areas, bearing in mind that they would otherwise be re-

leased and returned to public land management without any further study.

BLM initially planned to recommend as suitable for wilderness designation six areas that are not included in S. 2117 or H.R. 2570: Black Mountains North, Burns Springs, Lower Burro Creek, Crossman Peak, Planet Peak, and Cactus Plain. Information obtained since BLM's original tentative recommendations has caused us to reevaluate our position on Black Mountains North and Burns Springs. We now believe non-designation of these two areas is appropriate due to the consideration of the flight paths into the Bullhead City Airport and the mineral values. However, we continue to urge inclusion of the remaining four areas.

Lower Burro Creek WSA

Lower Burro Creek is recommended for wilderness designation to ensure the preservation of outstanding opportunities for recreation and solitude as well as benefits related to scenic, wildlife, cultural, plant, and water resources. The area includes 6 miles of perennial Burro Creek, an area known for its scenic beauty, abundant wildlife, and riparian habitat. It offers outstanding recreation opportunities to the visitor who can hike, backpack, camp, sightsee, birdwatch, fish, hunt, collect rocks, take photographs, and ride horseback. The Burro Creek drainage is regarded as one of the most archaeologically sensitive areas on public lands in the area. Further, the area recommended as suitable encompasses one of the most biologically diverse areas in Arizona, with over 250 plant and 300 animal species within 5 major plant communities.

Crossman Peak

Designation of the Crossman Peak area as wilderness would ensure the preservation of crucial desert bighorn sheep habitat, water resources, plant communities, cultural resources, outstanding opportunities for solitude and primitive recreation, as well as the imposing and relatively undisturbed scenic backdrop to Lake Havasu and the growing Lake Havasu City area. Outstanding scenery, opportunities for solitude, and a diversity of primitive recreation opportunities, ranging from day hiking, rock climbing, visiting cultural resource sites, photography, and wildlife and plant viewing makes the area attractive to a wide variety of recreationists.

Planet Peak

Planet Peak is recommended as suitable for wilderness designation to preserve outstanding opportunities for solitude and primitive and unconfined recreation, as well as benefit crucial desert bighorn sheep habitat. The wilderness values of substantially unnoticeable human imprints are enhanced by wildlife values. Conflicts with other resources uses in the area are limited.

Cactus Plain

The preservation of a unique dune system and the associated special plant and wildlife communities are the reasons BLM recommends the Cactus Plain area as suitable for wilderness designation. The dune system supports creosote, galleta bunch grass, small cacti and colorful annuals. There are also stands of ocotillo, silver cholla,

and big saguaro cactus. Solitude is enhanced by the area's large size, the numerous points of entry that encourage dispersed use, and the relatively dense vegetation cover on the eastern portion. There are two unique dunescrub plant communities in the area, and conflicts with other resource uses are limited. We feel that the boundary adjustments to the west side can accommodate the future expansion of the Parker Town Site and that the remainder of the area should be designated as wilderness.

As I noted, Section 102 of S. 2117 and section 3 of H.R. 2570 would continue study status for the Cactus Plain WSA indefinitely. Should Congress determine not to accept our recommendation for inclusion of the area with the revised boundary we recommend, then we will continue the FLPMA wilderness review process for this area.

Other comments on specific wilderness areas

Mount Nutt

The City of Oatman has historically made use of a pipeline to deliver domestic water, originating at Flag Spring, located on a patented mining claim, in Section 35, T. 20 N. R. 20W. G&SRM, Mohave County, Arizona, within the proposed Mount Nutt Wilderness Area. Currently, there is no authorization from BLM for this pipeline. Should either of these bills be enacted and Mount Nutt is designated as wilderness, BLM will authorize the use and maintenance of the pipeline under existing applicable authority. It is our intention that this authorization would be terminated promptly as soon as the City of Oatman has acquired and commenced operation of an alternate water source.

Rawhide Mountains and Arrastra Mountain WSA

A portion of both the Rawhide Mountains and Arrastra Mountain proposed wilderness areas are covered by a withdrawal by the Corps of Engineers for Alamo Dam and Reservoir. The Bureau of Reclamation also has a powersite withdrawal for the Dam, which is already fully constructed.

The Corps has a licensing arrangement with the State Park and State Fish and Game Departments covering the withdrawn area to manage recreation and fish and wildlife.

Due to the presence of these other agencies in a portion of these areas, we believe it is appropriate to insert in subsections 101(a) (7) and (8) of S. 2117 and subsections 2(a) (7) and (8) of H.R. 2570 language to specifically provide for coordinated wilderness management by BLM.

Language of amendment to so provide is attached.

Gila Box Riparian National Conservation Area

The designation of the Gila Box as a Riparian National Conservation Area is consistent with our proposed management recommendations for this area. Under section 103(d), Management of Conservation Area, the Secretary is to manage the area in a manner that conserves, protects, and enhances its resources and values allowing only such uses as are found will further the purposes for which the area is established. BLM is to develop a com-

prehensive plan for long-term management of the area, with full public participation.

We have several comments and recommendations on the provisions of the Gila Box sections in both S. 2117 and H.R. 2570.

The language in subsection 103(d)(2) specifies that the use of motorized vehicles will be permitted only on roads designated for such use in the Management Plan. In addition to existing roads, there may also be other "ways" or "trails" appropriate for road designation without impairment of the natural values of the area. We would consider these other routes, as well as existing roads, in preparation of the Management Plan.

Read together, subsections 103(f)(2) and (g)(2) are confusing. Subsection 103(f)(2) requires that we incorporate a discussion of including additional lands in the management plan. This discussion is to encompass non-Federal lands contiguous to the boundary shown in the map as filed, or as adjusted under subsection 103(g). These non-Federal lands could include those lands "within the area extending two miles on either side of the centerline" of a referenced stretch of Eagle Creek.

However, under subsection 103(g) acquisition and boundary adjustment authority is limited to any acquired lands within the Eagle Creek riparian area "as well as public lands within that portion of the Eagle Creek riparian area west of the centerline of Eagle Creek."

We recommend amendment to conform the authorized boundary adjustments and acquisition language to the full scope of the discussion in the management plan. Deletion of the phrase "west of the centerline of Eagle Creek" from subsection 103(g)(2) of S. 2117 and subsection 4(g)(2) of H.R. 2570 would accomplish this.

Section 103(f) provides two years for development of a management plan for the area. We believe that a three year period would be more realistic. Since numerous wilderness plans will be developed and completed within a two year period, the task for the district will already be formidable. Due to this volume and the complexity of the area for which the plan is required, we urge modification to three years.

For reasons stated earlier in my remarks, the water language in subsection 101(g) of S. 2117 should be modified to reflect the language in subsection 4(e) of H.R. 2570.

This concludes my statement. I will be pleased to answer questions.

ATTACHMENT I

SUGGESTED LANGUAGE OF AMENDMENTS

Add at the end of subsections 101(a)(7) and (8) in S. 2117 and subsections 2(a)(7) and (8) of H.R. 2570 the following: "Management of the wilderness values of this area pursuant to this Act, including that portion withdrawn in connection with the Alamo Dam and Reservoir, shall be carried out by the Secretary of the Interior through the Bureau of Land Management. The Secretary shall ensure that such management will not affect the operation and maintenance of Alamo Dam by the Secretary of the Army in accordance with the authorized project purposes. In addition, the Sec-

retary shall consult with the Secretary of the Army, the State of Arizona Fish and Wildlife Agency, and any other Federal and State agencies which are affected by the management of the wilderness values in the area."

ATTACHMENT II

RECOMMENDED ACREAGE CHANGES AND TECHNICAL CORRECTIONS—S. 2117

P. 3, line 2—change 76,600 to 90,600.
P. 3, line 16—change Yavapai to La Paz.
P. 3, line 24—change 129,525 to 126,760.
P. 5, line 1—change 94,100 to 89,000.
P. 7, line 14—add Cochise County.
P. 7, line 24—add Mohave County.
P. 9, line 2—change 74,004 to 60,800.
P. 9, line 12—add Yavapai County.
P. 10, line 3—change Mohave to Yavapai County.
P. 10, line 8—add Greenlee and Graham Counties.
P. 10, line 13—change Yuma to La Paz County.
P. 10, line 14—change 21,860 to 21,680.
P. 10, line 19—change Gila to Pinal County.
P. 13, line 23—change "areas" to "area".
P. 14, line 1—change "Acres" to "Areas."

TECHNICAL CORRECTIONS—H.R. 2570

P. 7, line 12—add Cochise County.
P. 7, line 22—add Mohave County.
P. 9, line 12—add Mohave County.
P. 10, line 8—add Greenlee and Graham Counties.
P. 10, line 19—change Gila to Pinal County.
P. 11, line 24—change area to areas.

STATEMENT OF MICHAEL J. SPEAR, REGIONAL DIRECTOR, REGION 2, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, I am Michael Spear, Regional Director of the Southwest Region of the United States Fish and Wildlife Service. It is my pleasure to appear before you today to discuss proposed wilderness designations on National Wildlife Refuges in Arizona.

S. 2117 and H.R. 2571 as passed by the House of Representatives, would designate as wilderness portions of four diverse and very valuable units of the National Wildlife Refuge System—the Havasu, Imperial, Kofa, and Cabeza Prieta National Wildlife Refuges. Although each of the four refuges was established for its individual purposes, each also protects a part of the fragile and unique desert ecosystem of the Southwest. It is the desert habitat, in varying amounts, on each of the four refuges that has been proposed for wilderness classification.

In 1974, the President proposed wilderness designations on all four of these refuges. The bill follows those recommendations, with certain modifications that we support, and we also recommend relatively minor amendments to reflect more recent agreements. En-

actment of this legislation will ensure the continuation of management of these areas to protect their unique and irreplaceable natural values.

Roderick Nash, the historian of the American wilderness movement, once predicted that the time when wilderness was considered viable only for leftover land, preserved because nobody wanted it for anything else, was fading fast. Nowhere has that prediction proved more true than at the Kofa and Cabeza Prieta Refuges.

On these refuges, vast tracts of Sonoran desert are present as complete ecological units of exceptional wildlife value. The wilderness proposals embrace alluvial desert valleys and mountain ranges that represent the last reaches of undisturbed Sonoran desert of any appreciable size and contiguity remaining on this continent. On Havasu and Imperial Refuges, the desert lands and mountains rim the flood plain of the Colorado River as it flows through Service-administered wetlands and croplands.

The plant and wildlife communities supported by these lands reflect the unique character of the desert environment to which they have adapted. The stability and health of these areas testify to the manner in which they have been protected from disturbance or development. The management of those plant and wildlife communities to achieve the purposes for which the refuges were established, while also protecting the wilderness values of the lands, has had to be altered only minimally in deference to their de facto wilderness status. The analysis and selection of management methodologies that comprise the requisite minimum tools for use in a wilderness area have not precluded positive management actions.

On the Kofa Refuge, maintenance of approximately 80 existing wildlife watering facilities and construction of 7 new sites has occurred since the original proposal was submitted to Congress. On the Cabeza Prieta Refuge, similar habitat management efforts have also been implemented. We have modified methods of personnel and material transport from wheeled vehicles to helicopters where appropriate, but such modifications have not caused us to delay or forgo in any manner management actions considered necessary to further our mission in the administration, protection, and enhancement of the lands and wildlife for which we are responsible.

KOFA NATIONAL WILDLIFE REFUGE

The 1974 proposal for the Kofa Refuge set forth a total of 542,600 acres as suitable for wilderness designation. That proposal included three applications for withdrawal of public domain lands for addition to the Refuge. The largest of these withdrawals comprised 31,700 acres lying immediately north of the Refuge's northern boundary. This proposal was made prior to the enactment of the Federal Lands Policy and Management Act (FLPMA), which provided the BLM with the authority to manage wilderness areas. The passage of FLPMA, in effect, negated the need for the land to be added to the refuge in order to be designated wilderness.

Because the lands within this portion of the proposed withdrawal which are suitable for wilderness (21,680 acres) have been included in the Bureau of Land Management's New Water Mountains wilderness proposal also addressed in this bill, and because the BLM

manages all the adjoining public lands where management facilities such parking, trail heads and road access development and maintenance would occur, the Fish and Wildlife Service supports continued administration of this tract by the Bureau of Land Management.

The two remaining, smaller parcels of public domain land included in the 1974 withdrawal request abut the western boundary of the Kofa Refuge. The Department supports inclusion of these two areas within the Refuge and their designation as wilderness. Adding them to the refuge would not only create a more manageable boundary, following distinct geographical features readily identifiable by visitors, but also protect the western slopes of the Castle Dome Mountains.

Limitations of motorized public access on the Kofa Refuge were included in the 1974 wilderness proposal. Approximately 82 miles of road were proposed for closure, retaining 275 miles open to link the major units comprising the wilderness. This proposal approached the question of vehicular access in the most conservative manner considered necessary to preserve wilderness values.

In the 16 years of de facto wilderness management of large portions of these refuges that have passed since their first wilderness proposals, the Fish and Wildlife Service has worked with all the divergent private and public entities who expressed their continuing interests in these lands. Our experience has indicated that a somewhat less restricted access network would still protect the wilderness values of the area. In testimony last year before the House Interior Committee on this legislation, the Service recommended a modification of the 1974 proposal to open an additional 49 miles of roads to the public. This modification was designed to provide a more realistic balance between isolation of large tracts of core wilderness lands and fragmenting wilderness through maintenance of unnecessary roadways.

In January of this year, a compromise on access roads linking the wilderness units was reached that will not only satisfy the sometimes conflicting needs of the various user groups but, most importantly, will secure the protection of wilderness values of these lands held on the national behalf for generations to come. That compromise would open some roads and close others, resulting in a net closure of an additional 3 miles of refuge roads. We believe the remaining road system, with 326 miles open to public vehicular access and 31 miles closed, allows adequate travel within the refuge but protects extremely valuable wildlife habitats and wilderness values of the Kofa Refuge.

In addition, the major access corridors proposed for the Kofa Refuge in 1974 were delineated as 600 feet wide. We do not believe such a broad width is necessary and recommend that rights of way for roads on the Refuge be limited to 100 feet on each side of centerline. By reducing road corridor widths to 200 feet from the originally proposed 600 feet and by establishing the road network as I have described, an additional 6,200 acres would be included in wilderness.

This addition, together with the inclusion of 5,300 acres of Public Domain lands in two tracts abutting the western boundary of the refuge would result in a total of 516,200 acres of wilderness in the

Kofa Refuge. We recommend that whichever bill the Committee reports be amended to reflect this figure.

I would note that the figure of 5,300 acres for the two tracts of public land to be added to the refuge and designated wilderness reflects a recent reconfiguration of the area, agreed upon between the Service and BLM, to avoid possible conflicts with an existing utility corridor. These figures, and the resulting total acreage for the Kofa wilderness designation, are different then the figures reflected in H.R. 2571 as passed by the House.

CABEZA PRIETA NATIONAL WILDLIFE REFUGE

The 1974 proposal to designate 833,500 acres of the Cabeza Prieta Refuge as wilderness also included a proposed withdrawal of 80,000 acres of public domain lands as an addition to the Refuge, and designation of 72,700 acres of those lands as wilderness. This area, known as the Tinajas Altas, is part of the Barry M. Goldwater Air Force Range and forms a critical element for ground maneuver training exercises by the U.S. Marine Corps. The 1986 Military Lands Withdrawal Act extended the authority for the military use of the area, and gave the natural resource management responsibility to BLM.

A recent land use planning study by the Bureau found that surface military training activities have noticeably impacted 36,000 acres within this area, and that it does not possess high or threatened cultural, wildlife, scenic or botanical resource values. It therefore would not meet wilderness suitability criteria. I fully expect BLM policies and practices in regulating uses of the area to provide necessary resource management of the Tinajas Atlas, particularly in the proposed 56,000-acres Area of Critical Environmental Concern encompassing the Tinajas Altas Mountains.

We therefore support the decision reflected in S. 2117 and H.R. 2571 not to transfer these 80,000 acres to the refuge.

We continue to support the limitation of motorized access on the Cabeza Prieta Refuge to the two corridors proposed in 1974. These corridors provide necessary access while protecting the classic desert wilderness values of the Refuge. However, the width of these corridors should be reduced to 200 feet from the originally proposed 600 feet. Public uses are minimal and highly restricted by the military uses made to Refuge airspace.

We have calculated that approximately 3,418 acres could be added to wilderness within the Cabeza Prieta Refuge through this reduction of road corridor width.

The 1974 wilderness proposal for the Cabeza Prieta excluded an area of approximately 37,000 acres lying along the southern refuge boundary. This area, known as the Tule Well Exclusion, had been targeted for development that would have rendered it unsuitable for wilderness status. These planned developments were directed to support non-wilderness-oriented recreation, the demand for which has never developed, and we do envision that the demand will arise to justify exlcusion of this area from wilderness.

Therefore, we request that it be included in the Cabeza Prieta wilderness proposal. The addition of these acres and those freed by the narrowing of the road corridors would increase the proposed

wilderness area to 803,418 acres, and we commend that S. 2117 be amended to reflect this acreage, which was contained in H.R. 2571 as passed by the House of Representatives.

MILITARY USAGE

The Departments of the Army, Air Force, and Navy utilize the airspace over the Kofa and Cabeza Prieta Refuges on a year-round basis. The Kofa Refuge receives overflight use by the Department of the Army over approximately 80 percent of its area and more than 170,000 acres of the southern half of the Refuge serve as a non-impact artillery overflight zone. Although most flights are at elevations above 24,000 feet, aircraft operations may occur from 1,500 feet above ground level to 80,000 feet. Missions over the Refuge follow a general east-to-west flight path and may exceed 200 flights per month.

The Cabeza Prieta Refuge is overlain by the Barry M. Goldwater Air Force Range with joint use by the U.S. Marine Corps, from Yuma Air Station, over the western sector, and the Air Force, from Luke Air Force Base, over the eastern sector. All military aircraft flying over Cabeza Prieta Refuge are required to maintain minimum altitudes of at least 1,500 feet above ground level, except along mutually approved low-level corridors. Air operations below 1,500 feet are allowed at any time along the existing corridors. In instances where low-level flights are proposed in the airspace exterior to the existing paths, coordinated review and assessment is conducted by the requesting military office and the Refuge.

The U.S. Fish and Wildlife Service does not anticipate any change to existing operations and coordination with military users caused by the wilderness designations we have recommended in these two refuges.

IMPERIAL NATIONAL WILDLIFE REFUGE

In 1974, approximately 14,470 acres of the Imperial Refuge were proposed for wilderness designation in five units. Of that total, 6,130 acres are located in California and 8,340 acres lie across the Colorado River in Arizona. The disjunct parcels (2 units in California and 3 in Arizona) were necessitated by the occurrence of tracts of private and State lands. Acquisition of State inholdings in Arizona has resulted in extension of possible wilderness lands on the eastern bank of the river almost contiguously along the length of the Refuge. The ownership of these areas by the State was the only reason for excluding them from the 1974 proposal. The subsequent acquisition by the Service has rendered these lands suitable for wilderness designation.

We therefore support designation of 9,220 acres of wilderness at the Imperial refuge, as provided by S. 2117 and H.R. 2571.

The river boundary of the proposed wilderness was described in 1974 as a line 300 feet horizontally landward of contour elevation 230. In order to provide a line which would afford more protection to highly valuable backwater areas flanking the river, and to provide a more clearly discernible boundary, we support placing the wilderness boundary at the 200-foot contour from Clear Lake north to Township 4S., Range 23W., SW ¼ of Section 18, and at the 220-

foot contour from that point north to the northern wilderness boundary, immediately south of Clip Wash.

HAVASU NATIONAL WILDLIFE REFUGE

The 1974 proposal to designate lands as wilderness within the Havasu Refuge encompassed a total of 2,510 acres, all in California. A larger Arizona segment of 14,606 acres was found suitable but not recommended because of third party mineral holdings on alternate sections of land. Through the fine efforts of Bureau of Land Management Arizona State Director Dean Bibles in 1988, a three-party land exchange among the Service, the Bureau of Land Management, and the mineral estate owner (Santa Fe Pacific Railroad Company) brought the mineral rights for land in question back to the Federal Government.

We support designation of these 14,606 acres as wilderness in the Arizona portion of the refuge, as provided by S. 2117 and H.R. 2571.

CONCLUSION

The desert environment encompassed by these proposals represents a world of extraordinary variety and complexity. As greater and greater land areas in the West and Southwest are encroached upon by development, fewer and fewer areas retain much of their original natural character. The diversity of biotic species, ecological communities, and other natural elements stand on an ever narrowing base. To counteract this, we need to set aside, in viable units, adequate areas of functioning ecosystems and their biological components. It is not enough simply to set aside certain tracts where convenient. Before we are confronted with only ecological remnants of natural systems, we must actively protect complete, self-sustaining units. Such an opportunity for protection is before us in consideration of wilderness on these four refuges.

In the 15 years that have followed since these areas of Arizona refuges were first proposed for wilderness, the U.S. Fish and Wildlife Service has followed its mandate to preserve and protect the natural resource values that render these areas outstanding units of the Refuge system. In doing so, the Service has also preserved the natural processes and biotic diversity of the desert ecosystems that make these lands suitable for wilderness status.

For most of the American public, these four areas of the Kofa, Cabeza Prieta, Havasu, and Imperial National Wildlife Refuges have always been remote. Set apart by a harsh and unforgiving climate, by extremely rugged terrain, and by a water supply that is most noticeable by its absence, these areas cannot and should not support intense public uses. However, they and the plant and wildlife communities they support have endured for centuries. The passage of S. 2117 or H.R. 2571 will assure that these wild areas will continue to endure.

Mr. Chairman, thank you for the opportunity to testify on this important legislation. I will be happy to address any questions you may have.

ADDITIONAL VIEWS OF MR. BUMPERS

During the consideration of H.R. 2570, the Arizona Desert Wilderness Act, some members of the Committee expressed concern that the legislation was being rushed through the Committee before all major issues had been addressed or even before both Arizona Senators had reached agreement on the bill. I believe it is important that the record reflect the complete and thorough process provided for this legislation, the first statewide BLM wilderness bill be considered by this Committee, and also to acknowledge the cooperation and consensus among the members of the Arizona Congressional delegation.

In May of 1989, Senators DeConcini and McCain introduced S. 1080, which designated approximately 883,000 acres of BLM wilderness and approximately 12,000 acres of wildlife refuge wilderness. In June, 1989, Representative Udall introduced H.R. 2570, which designated approximately 1.4 million acres of BLM wilderness and H.R. 2571, which designated 1.3 million acres of wilderness within National Wildlife Refugees.

Following the introduction of H.R. 2570 and H.R. 2571, the House Interior and Insular Affairs Committee held two extensive hearings in Arizona and an additional hearing in Washington. Thereafter, the Arizona delegation met on a regular basis to attempt to work out a compromise agreement. In addition, the delegation worked closely with the Bureau of Land Management, environmental organizations, local residents, user groups, and other interested parties.

The House Interior and Insular Affairs Committee reported substitute amendments to H.R. 2570, designating approximately 1.1 million acres of BLM wilderness, and to H.R. 2571, designating approximately 1.3 million acres of National Wildlife Refuge wilderness. The bills reported by the Committee reflected the compromise reached by the Members of the Arizona Congressional delegation. Senators DeConcini and McCain then introduced S. 2117, which designated identical BLM and wildlife refuge wilderness areas as H.R. 2570 and H.R. 2571.

On April 5, 1990, the Subcommittee on Public Lands, National Parks and Forests held a lengthy hearing on both H.R. 2570 and S. 2117, during which all major issues were discussed in detail. At the hearing, both Arizona Senators testified in support of the legislation.

Title III of H.R. 2570, as ordered reported, designates approximately 1.3 million acres of wilderness within four National Wildlife Refuges in Arizona. This designation follows the wilderness recommendations made by the Administration in 1973 and 1974, with the exception of the proposed acreage in the Havasu National Wildlife Refuge, which was modified to reflect changes in the subsurface land ownership status subsequent to the presidential recommendations.

In addition to working out an agreement on wilderness area designations, the Arizona delegation also reached a compromise on the water rights language for both the BLM and wildlife refuge wilderness areas, after the bills were reported out of the Interior and Insular Affairs Committee. The House of Representatives amended H.R. 2570 on the floor to reflect the compromise water rights language. This language, which was not modified during this Committee's consideration of H.R. 2570, is supported by both Arizona Senators, four of the five members of the Arizona House delegation, the Governor of Arizona, and the Director of the Arizona Department of Water Resources.

This water rights language was carefully and narrowly drafted to ensure a Federal reserved water right for the designated wilderness areas, while reflecting the importance of the State of Arizona's role in quantifying and adjudicating such water rights. The language is workable, and in fact is very similar to the water rights language contained in the Nevada Wilderness Act enacted earlier this Congress.

At its hearing on H.R. 2570 and S. 2117, the Subcommittee was told that a few issues—military overflights, the effect of wilderness designation on law enforcement operations within the Cabeza Prieta National Wildlife Refuge, and possible impacts on the operation of dams on the Colorado River—were not fully addressed by the bills. In response to these concerns, the substitute amendment adopted by the Committee addresses each of these concerns.

With respect to military overflights over the BLM wilderness areas, the Committee amendment contains the identical overflight language contained in the Nevada Wilderness Act. While some have expressed concern that the language does not permit location of ground instrumentation facilities, I think it is important to note that there are no such facilities located within any of the proposed wilderness areas, and that this language was recommended to the Committee by both the Department of Defense and the Bureau of Land Management.

The Committee amendment also provides that the designation of wilderness within two wildlife refuges along the Colorado River shall not be construed to affect the operation for flood control purposes of Federally owned dams located on the river. As noted in the Committee report, the boundaries of the wildlife refuge wilderness areas were carefully drawn to exclude the Colorado River from the wilderness areas. While I don't think this language is necessary, the provision clarifies that the dams will not be affected by the wilderness designations.

The Committee also adopted a provision permitting law enforcement operations to continue along the border between the United States and Mexico within the Cabeza Prieta National Wildlife Refuge. The amendment clearly states that nothing in title III (designating wildlife refuge wilderness areas) "including the designation as wilderness of lands within the Cabeza Prieta National Wildlife Refuge" shall be construed as precluding or otherwise affecting continued or new operations by the Immigration and Naturalization Service, the Drug Enforcement Administration, or the United States Customs Service, consistent with the management of the refuge for the purposes the refuge was established.

Although I think this language completely eliminates any ambiguity with respect to law enforcement border operations, some members of the Committee questioned the effectiveness of the provision without a specific reference to the Wilderness Act. Yet, when wilderness areas are designated with a provision for continued operation of an otherwise incompatible use, such as a power line, there is no specific reference to the Wilderness Act, nor is there any such reference in the military overflight language, and I am not aware of anyone ever successfully challenging such provisions as being ineffective.

In sum, H.R. 2570 is a balanced, reasonable and thoughtful bill which protects significant areas of our beautiful desert southwest and provides a workable management framework for administering these lands. The Arizona delegation and the many individuals who worked on this legislation should be commended for their efforts to reach this consensus. As the Subcommittee Chairman, I am pleased to bring this measure before the Senate for its consideration.

DALE BUMPERS.

ADDITIONAL AND MINORITY VIEWS OF MESSRS. McCLURE, WALLOP, BURNS, AND GARN

The Committee has generally adhered to a policy of allowing each state's delegation to determine the size and shape of its wilderness proposals. In particular, we almost always require the approval of both Senators of such state, regardless of party affiliation.

With respect to H.R. 2570, the Arizona Desert Wilderness Act, we must confess that we have serious concerns with some of the language, particularly that dealing with water, military overflights, and the opportunity to continue drug enforcement and other activities in that part of the proposed wilderness bordering Mexico.

There are a number of issues in this legislation that we would like to address.

First, we do not believe this bill adequately provides for potential development of future ground instrumentation requirements to complement military overflight activities.

In addition, designation of wilderness areas in and of itself should not impact the Air Force or Navy's ability to continue their training mission.

We believe there are currently no rules or prohibitions preventing overflight of wilderness areas; however, the Wilderness Act contains provisions which some special interest groups would argue limit aircraft usage over wilderness to established flying activities existing at the time individual wilderness areas are created. This restrictive view of the Wilderness Act has not yet been supported by judicial opinion, but it is anticipated that increased pressure will develop from special interest groups to restrict or prohibit overflight activities in wilderness areas.

Over time, pressures on flying operations have pushed military activities into less populated and developed areas of the nation, often to areas being considered for designation as wilderness. These pressures continue to make it more and more difficult to conduct flying operations, particularly low-level flight, over most of the country, and flight over water cannot fulfill requirements. Restrictions on flight operations over wilderness areas could deny these traditionally excellent and invaluable flying areas to Department of Defense and force flight operations to take place over areas where people live, work, raise livestock and play in much larger numbers. It is unlikely that all necessary flight operations could be conducted entirely outside areas designated as wilderness, and operations outside wilderness areas will face continued and growing opposition as they impact other land uses.

A series of bills now pending in Congress, including S. 2117, and the ongoing Federal Land Policy and Management Act study of Bureau of Land Management lands for possible wilderness designation suggest that huge new areas of wilderness may be established

in the next few years. As examples, S. 2117 would create over one million acres of wilderness in Arizona and S. 11, originally introduced by Senator Cranston, would create over eight million acres of wilderness in California.

While this legislation generally states, "Nothing in this title shall be construed to preclude" such activities, we believe we must actually provide specific preclusion from the Wilderness Act if we truly want to permit continued long-term use and improvement of current military overflight activities in this area. Specific authority to continue such activities would be preferable.

We believe the same is true with respect to the long-term continuation of law enforcement activities along our border as provided in Section 301(g) of the bill. While the intent here may be good, we believe that a strict interpretation of the Wilderness Act would not easily permit the kind of law enforcement activities along the border that most of us probably expect.

While there is an existing Memorandum of Understanding between the U.S. Fish and Wildlife Service and the border patrol to conduct activities along the border, we believe that passage of this legislation in its present form would preclude the Fish and Wildlife Service from renewing the agreement because such activities would be inconsistent with provisions of the Wilderness Act. Again, we believe we should expressly exempt these activities from the Wilderness Act if we in fact really want to get the right result. The Drug Enforcement Agency, U.S. Customs Service and the border patrol must be provided the specific authority to continue their operations without any limitation that the Wilderness Act would apply.

Finally, with respect to the water language, we have several concerns.

First, we are not certain that you can get from the statutory language to the interpretation placed in the House report; in addition, we would caution our colleagues that report language will not cure the plain meaning of a statute.

Second, it is clear that the Arizona delegation and the head of the Arizona Department of Water Resources intend that there be no interference with the operation of Alamo Dam, yet the bill specifically directs all federal officials to protect the reserved right. There is no exception of Alamo Dam in Title I as there is for the dams on the main stem of the Colorado River in Title III and the Secretary of the Army is clearly a federal official.

Third, there are areas where everyone agrees that there is no water to reserve, yet we are not only asserting a reserved right but directing the Secretary to take actions to secure and protect that right. In an appropriation State, we fear what a court will do with that dichotomy.

Fourth, there are already reserved rights on the Colorado River Refuges and no unappropriated water available other than from the Colorado River. We are not certain that merely drawing the boundary back will suffice to prevent a court from finding an attempt to reregulate the Colorado River. That fear is reinforced since the bill only protects flood control purposes for the main stem dams and not other purposes such as power and water deliveries.

Fifth, the language is at variance with the precise language of the Supreme Court and the Committee should either indicate that we intend the rights to be quantified in the same manner and to the same extent as would an implied right under *U.S.* v. *New Mexico, Cappaert* and the other cases dealing with implied rights, or we should justify why we are departing from settled case law.

And finally, as a technical matter, the reference to the McCarran Amendment is wrong. The bill says that the adjudication must be conducted in accordance with the McCarran Amendment. The McCarran Amendment only waives sovereign immunity to permit the involuntary joinder of the United States in a State Court proceeding, but it does not direct how that proceeding is to be conducted.

JAMES A. MCCLURE.
MALCOLM WALLOP.
CONRAD BURNS.
JAKE GARN.

MINORITY VIEWS OF MESSRS. WALLOP AND GARN

As Senators from Upper Basin States, we want to raise a particular concern which we have with the water language in the Arizona Desert Wilderness bill with regard to the Wildlife Refuges along the main stem of the Colorado River.

Those Refuges already have a reserved right decreed by the Supreme Court in *Arizona* v. *California.* We understand that the boundaries of the Wilderness areas were drawn back to prevent any possibility that a court would find any rights in the Colorado River. We are not comfortable, however, with reliance on report language where the Law of the River is concerned. The explicit reservation of a water right where there may be no unappropriated water rights other than from the Colorado River heightens our concern. The Lower Basin's allocation is totally preempted and governed by federal law—specifically the Boulder Canyon Project Act and the Court Decrees. If there is an additional flow requirement as the result of this legislation, we want to make certain that such a flow does not impact in any manner the interstate allocation between the Upper and Lower Basins and that nothing would require any additional releases from the Upper Basin. Specifically, the Lower Basin States should absorb any federal reserved right from their allocation and at the expense of their consumptive uses.

We do not intend to dictate to the Lower Basin how that allocation should be made, but we do want to protect Wyoming, Colorado, Utah, and New Mexico's rights under the Compact. These Refuges, and whatever rights they may acquire, are downstream of both the All American Canal and the Central Arizona Project. If these rights are subject to the Decree and come from Arizona's allocation, that is fine. If all the Lower Basin States must share, and the Secretary reduces deliveries to the Seven Parties in California, that is a matter for the Lower Basin States to agree upon.

Accordingly, we will offer an amendment which would be as tightly drawn as possible to make it clear that if there are any reserved rights from the Colorado River, they must be satisfied completely at the expense of other water uses in the Lower Basin and that nothing can compel any additional releases from the Upper Basin, either in timing or quantity. Specifically, the Lower Basin must absorb any reserved rights from within existing uses, even if that means a reduction in deliveries to the All American Canal or the Central Arizona Project.

MALCOLM WALLOP.
JAKE GARN.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the act as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proposed is shown in roman):

[Public Law 98-406, 96th Congress]

AN ACT To designate certain national forest lands in the State of Arizona as wilderness, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arizona Wilderness Act of 1984".

TITLE I

SEC. 101. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Arizona are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

* * * * * * *

(23) certain lands in the Coronado National Forest, which comprise approximately twenty-six thousand seven hundred and eighty acres, as generally depicted on a map entitled "Santa Teresa Wilderness—Proposed", dated February 1984, and which shall be known as the Santa Teresa Wilderness; [the governmental agency having jurisdictional authority may authorize limited access to the area, for private and administrative purposes, from U.S. Route 70 along Black Rock Wash to the vicinity of Black Rock;]

* * * * * * *

○